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POLITICAL ASPECTS OF THE NEW DEAL*

JOHN DICKINSON

Assistant Secretary of Commerce, Washington, D. C.

Forty years ago, an intelligent Englishman in a private letter described his impressions of the then state of American politics. "When educated men get to talking politics," he wrote, "they have a sort of bitter despair in their minds which is not pleasant to listen to. I dare say the solution is one which was told me the other day. There is nothing in politics now."[1] "In a happy country like this, politics don't affect great questions or the happiness of the nation."[2] "Politics is all dullness relieved by rascality."[3]

For the greater part of the sixty years since the Civil War, Sir Cecil Spring-Rice's description of American politics has held substantially true, though of course more true at some times than others. The twelve-year period through which we have just passed was one of the intervals of which it was distinctly rather *more* than less true. Since then there has been a change. It is no longer true that politics do not affect great questions or the happiness of the nation. It is no longer true that politics is all dullness. From the standpoint of the student and observer of political developments, perhaps the most significant aspect of the new period into which we have entered has been the quickening of the political consciousness of the American people, the awakening of a renewed interest in politics and political activity as an instrument for the solution of problems connected with the general welfare. We have advanced

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[1] Cecil Spring-Rice to his brother Stephen, Jan. 24, 1890. *The Letters and Friendships of Sir Cecil Spring-Rice* (Boston, 1929), vol. 1, p. 102.

[2] Cecil Spring-Rice to Ronald Munio Ferguson, March 28, 1890. *Ibid.*, vol. 1, p. 104.

[3] Letter cited in note 1.

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a long way in the short interval since an occupant of high office could say, with general approval, that the main object of government was to mind its own business and let the citizens mind theirs.

There has come at last, with the surge and pressure of a current too long dammed up, a nation-wide demand that the national government shall do something about national problems. It is this demand, impinging from all directions on Washington, that has carried the Administration forward to measures which, to those accustomed to the *laissez-faire* administrations of the past, seem like a revolutionary extension of governmental activity. That extension has come because it has been demanded, and the demand is indicated by the willingness and docility with which the new legislation has been accepted. In spite of conservative critics, our people have not fallen so low as tamely to submit to what they themselves regard as an invasion of their rights. They are submitting in an overwhelming majority to the regulatory features of the President's recovery program because it is the result of their own demands.

I do not now refer to demands for special favors such as have too frequently moved even the *laissez-faire* administrations of the past. Such demands, while still obtrusive, have largely receded. What has been demanded at Washington since the beginning of this administration by spokesmen of all interests—industry, agriculture, and labor alike—has been a national program to bring into balance, in one way or another, the national economy as a whole. Each interest has, of course, dominantly emphasized its own claims, but the emphasis has at least been upon the claims of nation-wide interests and not of mere private groups, and it has been tempered with a willingness to conciliate and compromise with the claims of coördinate interests in the national economy. Without the broader point of view which has expressed itself in such a spirit of conciliation, the recovery program could not even have been launched.

I

I suggest, therefore, that the first significant political aspect of the New Deal is one which should specially interest political scientists who are studying public opinion. There are at least three main problems for their consideration. The first relates to the changed state of opinion among the important organized interests of the country who are subjected, in one form or another, to burdens by

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the recovery legislation, but who instead of standing by their past opposition to governmental regulation, have welcomed it with an amazingly full measure of coöperation. No doubt this change is but another illustration that opinions result in large measure from factual pressures. For a number of years the more thoughtful industrialists have been on the way to perceiving the essential inconsistency between our mechanized system of mass production and distribution on the one hand and unregulated competitive individualism on the other. Faced with this problem, the urge toward some amalgam of industrial coöperation with governmental regulation seems inevitable. This view was growing during the boom years under the surface doctrine of rugged individualism, and when the latter collapsed, there has been left for the moment among the business community a fluid state of mind, which is receptive to experiments in coöperation and control. On the whole, these are most strongly resisted by the smaller business men, who are less likely to visualize the problems of their industry as a whole, and who, as individuals, may hope, through unregulated competition, to increase their own importance. For the time being, however, the financial distress of this class is so acute that they have been willing, as they might not otherwise have been, to go along with any program which seemed to promise a measure of general recovery. The depression has made them aware, for the moment, of the connection between their own prosperity and the prosperity of the nation as a whole.

There has been a no less important development in the public opinion of the mass of the people who are outside the scope of organized interest-groups. Here, too, there has been a marked overhauling of mental furniture and an abandonment of stereotypes which had proved themselves unequal to saving the country from the depression. The popular acquiescence in governmental *laissez-faire* which was so marked a few years ago was, I believe, due primarily to the fact that the people were looking elsewhere than to government for their leadership, and not to the fact that they wished to be leaderless. The instinct for leadership was strong, but our people had enthroned business, rather than government, in a position of preëminence, and necessarily business leadership belittled the significance and value of governmental action. As a result of the depression, business toppled from its pedestal as the national idol and the popular mind reverted once more, as in the

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pre-business era, to the national government as the national leader. A strong feeling developed that something must be done to restore the economic life of the nation which business itself was unable to restore, and that government alone was in a position to undertake such a task. For the spread of this view, the personality of the President, with its remarkable appeal to the confidence of the average man, has been very largely responsible.

A third significant aspect of public opinion at the present time is the unusual unanimity which seems to characterize it on essentials. With the exception on the one hand of a more or less negligible group which sincerely repeats the dead liturgy of past dogmas, and an equally small group at the other extreme which sincerely advocates a dogmatic communism, practically all of our people seem agreed that now is not the time to divide over abstract systems, either of individualism or socialism or fascism, but that to meet the emergency, there is needed a degree of governmental regulation of private conduct and a degree of governmental subvention to industry which must be regarded as pragmatic expedients rather than as endorsements of any systematic theory. Since the hottest divisions of opinion always come about the rallying points of theories, the absence of such rallying points makes for unanimity. Differences are differences on questions of administrative detail, and these arouse no great heat. There is general recognition that such issues cannot properly be worked out by public opinion, but must be left to a series of decisions, wise or unwise, by the administrative authority. If enough unwise decisions should be made, the result in time would no doubt be a cumulative mass of popular resentment. That time, however, remains in the future, and meanwhile there is practically unanimous willingness to let the Administration have a fair chance to show its skill in carrying into effect a policy with the outlines of which practically everyone for the moment agrees.

I have referred to these various aspects of prevailing public opinion because they form, I believe, the essential background for any understanding of the political significance of the recovery program. From the standpoint of the student of government, there are, it seems to me, three major fields in which the recovery program raises questions of outstanding importance. The first is the policy of broad delegation of power by the legislature to the executive. The second is the extension of national power to cover

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types of regulation broader than those which have hitherto been exercised by the federal government through the interstate commerce power or otherwise. The third is the extension of the regulatory activity of government into fields hitherto left without regulation. I shall deal with each of these in turn.

II

The more important recovery statutes follow the plan of stating in the statute a broad outline of policy and of committing to the President, or to some other administrative agency, sweeping authority to give effect to the declared policy by making detailed rules and regulations or choices between alternative legislative devices. The two most important of the recovery statutes, namely, the Agricultural Adjustment Act and the Industrial Recovery Act, are both drafted in this form. Without elaboration of details, these are the most extreme and striking illustrations of the degree to which administrative authority has been expanded in connection with the recovery program. Concerning ourselves here with political and governmental, rather than constitutional considerations, the pertinent question is, What justification, if any, exists for such broad delegations of power? The answer will, I think, lead us back somewhat far into a consideration of the processes of government. We are in a field where the facts, and the exigencies imposed by the facts, seem to have outrun for the moment the theories available for dealing with them.

Viewing government as a practical process consisting of a sequence of specific acts, substantially all governmental acts which precede the stage of enforcement can, I submit, be reduced to three types, namely, formulation, consultation, and decision. A proposed governmental mandate must first be formulated somewhere. Then practically always it must be submitted to some form of consultation with a group of advisers. Finally, a decision as to whether it is to be adopted or not must be reached by some agency, either, for example, by the body of advisers in the form of a vote, or by the formulating agency itself as a result of the impression made upon it by the advisers. This process must go on in connection with every governmental mandate from a constitution or a statute at one extreme of the scale of importance to a minor administrative order at the other. In the case of an ordinary statute in normal times, the formulating agency is an individual senator or congress-

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man. The consulting agency is in the first instance a committee, and in the second Congress itself, and in both instances, the consulting agency has also the power of decision, since a proposal does not get before Congress ordinarily until the committee has approved it, and if Congress does not approve it, it does not become a governmental mandate. Under our form of government, it is only for extraordinary measures, or in extraordinary times, that the Administration assumes legislative leadership, or, in other words, becomes the formulating agency for proposals to be considered and decided by Congress. The recovery statutes fall within this extraordinary class of legislation for which the Administration has assumed leadership. In their formulation, it has been confronted with the problem of how much detail it should submit for consultation and decision by Congress, and how wide a field it should seek permission to reserve for its own decision after consultation with other agencies. In other words, should each specifically detailed regulatory mandate be submitted for congressional consultation and emerge as a detail of the statute, or should the approval of Congress be asked only for a grant of authority to the executive to make the detailed regulations itself? What justification is there, if any, for the fact that the second of these alternatives was chosen rather than the first?

The major consideration, I submit, for withdrawing the detailed regulatory mandates under the new statutes from the statutes themselves, and hence from consultation and decision by Congress, is simply the factor of the limitation of time and human effort. Under the Industrial Recovery Act alone, it has taken a force of more than 1,200 persons almost six months to work out about 150 codes for as many different industries; and the task of industrial codification is not yet completed. Obviously, Congress itself could perform no such task, nor has it the facilities to set up under its own control any mechanism for performing such a task. I suppose the argument might be advanced that the reason for the tremendous amount of work involved in the industrial codes has been that they have been on a voluntary basis, and that as a consequence there has had to be an enormous amount of consultation with the industries themselves. This is true, yet even if the voluntary feature had been absent, can it be supposed that regulations of this character, involving the detailed processes of an industry, could be satisfactorily worked out without the same type of consultation with the industry itself?

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In this fact of the desirability of consulting with an industry itself before finally deciding upon the detailed governmental mandates to be applied to that industry, we come upon the second important reason for not including the regulatory mandates in the statute, but reserving them instead for executive determination. In other words, government is entering upon a field where a new and different type of consultation from that which has ordinarily been applied in the past is increasingly important. In the past, the consultation which has preceded the promulgation of a governmental mandate has normally been confined to consultation with or between a group of general political advisers, such as the ordinary type of legislative body. To be sure, there has often been informal consultation, through hearings or otherwise, with some of the persons to be affected by the proposed mandate. But such consultation has formed no regular part of normal legislative procedure. There has, however, been growing up in recent years on the part of many of the administrative departments a regular practice of consulting with the affected groups before finally deciding upon a departmental regulation. It is this practice that has been brought into the foreground and emphasized by the procedure under the recovery legislation. From a governmental standpoint, no more significant change is embodied in the new legislation than the emphasis which it places upon consultation by the government with the affected economic groups on matters of substantive detail, in addition to political consultation with the legislature on matters of broad policy. It is primarily to leave room for this type of consultation, which can satisfactorily be carried out simultaneously on an extended front only by an executive agency, that the statute must content itself with eschewing details and confining itself to enunciating policy.

The question has been asked, and it is, I believe, significant that it has not been asked more frequently or more loudly, whether this process does not mark a stage in the supposed decadence of representative government, and whether it does not represent an American phase of the Fascist tendencies now prevalent in Continental Europe. For the benefit of those who prefer to think in terms of broad blocks of ideas, I suppose the answer would be that everything depends on what we mean by representative government and what we expect of it. If by representative government we mean that the representative body must itself lay down all of the details which the executive is to carry out, then by definition and

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hypothesis we have driven ourselves to say that the new development amounts to a curtailment of representative government. But is there any sound reason for adopting such a mechanical definition? For my own part, I would prefer a definition which would preserve to the representative body a power, on the one hand, to lay down for the executive the lines of policy which it is to follow, and, on the other hand, would preserve to it a supreme power of intervening at any point and correcting or undoing executive mandates which it regards as inconsistent with the policy so laid down. Both these powers remain to Congress in full in connection with the recovery program. It is sometimes suggested that in some way there has been a derogation from the powers of Congress because it has not been required that administrative regulations should be submitted to the legislative body before taking effect. Such a requirement would be superfluous. Congress can at any time intervene, and by specific statutory provision alter the regulatory provisions which the Administration, under its broad statutory authority, has put into effect for any particular industry, or any particular type of situation. While Congress retains this supreme corrective power, and while it remains as responsive as ever to the electorate at two-year intervals, it is, I submit, an academic diversion to speculate whether we are on the way to Fascism in the United States.

III

The second major development of interest to students of government in connection with the recovery program is the extension of national power under the new legislation to include types of regulation broader than those hitherto exercised by the federal government on any considerable scale.

The question of the proper distribution of functions between central and local government agencies is one of the most intensely practical in the whole field of politics. It is unfortunate that because of special circumstances in our constitutional history, it is too frequently discussed as if it were a problem of abstract logic or the verbal application of precedents. Almost all discussion of the boundary between state and federal functions goes on in terms of the interstate commerce power and the reserved rights of the states as interpreted in Supreme Court decisions. Actually, a much broader body of considerations must be resorted to if we are not to make needless sacrifices to abstract dialectic.

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Assuming the desirability of governmental regulation of economic activity, the question of whether any particular regulation is to be carried on through the central or a local governmental agency is essentially one of effectiveness. If a regulation is entrusted to an agency which cannot effectively perform it, the regulation is futile. Whether or not any given regulation can be effectively performed by the central or local government is a question of fact depending on the nature and object of the regulation, and on the way in which the economic activity to be regulated happens to be carried on.

As a result of a century and a half of nation-wide internal free trade within the United States, coupled with the rise of machine industry and mass production and distribution, local and interstate economic activity have come in many respects to be but correlative elements of a single industrial system. With a nation-wide market open to any producer, industries have been localized in particular sections of the country, so that what from the standpoint of a particular state may be local industries, are from a national standpoint the source of supply for the whole nation. The products of every state compete freely in the markets of every other.

The consequence is that substantially nothing can be done to improve the economic condition of the country by civilizing competition, spreading employment, regulating the marketing relations between producers, distributors, and consumers, or nationalizing production, unless it is done through a unitary program on a nation-wide scale. From the standpoint of these particular problems, there is no local aspect of industry or agriculture which can be separated out and treated differently from the national aspect. The problems as *national* problems not only relate to local conditions but to local trade, since the competition between local and interstate trade is everywhere continuous. If, in attempting to deal with these problems, there must be a separation between the supposed local and national elements, with one governmental agency attempting to regulate the local and another the national, the attempt at regulation, for these objectives at least, might as well be given up. The problem must be dealt with as a nation-wide continuum or not at all.

This is not by any means to say that for all purposes alike the line between local matters and national matters has disappeared

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in the economic field. There are countless matters which, without too great a balance of inconvenience, can be left to be regulated in one way in one state and in another way in a different state. This is not the point. What I am here insisting on is simply that for certain particular purposes and objectives, such as those suggested above, regulation must be nation-wide if it is put into effect at all, and that it must reach lócal as well as interstate transactions, since the two are so intermingled that the desired objective cannot be attained in one field unless the same regulation extends into the other also. If the regulatory power of the national government does not extend so far as to permit it to reach to these objectives, then they are beyond the reach of any governmental authority in this country. Such a conclusion would, I submit, be a *reductio ad absurdum* of the subordination of public welfare to verbal dogma. It results from tracing the boundary between concepts as if it were a physical boundary line between suburban lots. Actually, interstate and intrastate commerce are concepts which overlap, depending on the context in which they are used, and whether or not a transaction falls within the interstate commerce power is not wholly a matter of geography. We must remember that it is a constitution we are interpreting, and not a surveyor's manual. Sound interpretation follows, not a geographical line, but rather the line which separates matters of national concern from matters of local concern. Such a method of interpretation in connection with problems in this field has been so fully elaborated by Professor Corwin that I can pass on to my last topic.

IV

The recovery program has extended governmental regulation and restriction to a number of new fields—for example to such matters as wages, prices, production, use of labor-saving machinery, and the like, not hitherto subject to control. One preliminary word of caution is necessary concerning some of these new regulations. Many of them are not imposed regulations, but regulations adopted by voluntary concern among the persons affected. This is true, for example, of the regulations embodied in the codes under the N.R.A. and the marketing agreements under the Agricultural Adjustment Administration. To be sure, there is doubtless an element of compulsion of a moral kind on a minority in many industries who would not come under a code at all if they did not

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feel that public opinion demanded it. But in spite of this, the codes themselves embody a new type of governmental regulation in that their specific terms and provisions are not the result of mere political fiat, but have been worked out by consultation with those who are to be subject to them. Thus they do not contain provisions which the affected parties are flatly unwilling to accept. This principle of voluntary regulation, with the government acting as a stimulating and supervisory agency, is one of the major contributions of the present Administration to the technique of government. It minimizes the element of compulsion which has in the past always been emphasized as the dominant note in regulation, and emphasizes instead the element of order, adjustment, and coordination. None the less, the element of compulsion must remain in reserve, though relegated to the background.

The extension of governmental regulation and control in the past has usually been discussed in terms of an invasion of private rights. The discussion has commonly taken one of two forms. In so far as it has been general, it has set up, on the one side, the picture of private initiative, active, inventive, expressing itself in infinite diversification, and, on the other hand, the principle of regimentation leading to uniformity, dead monotony, and stagnation. The conclusion has then almost drawn itself that governmental regulation is necessarily a bad thing. In other cases where the discussion has addressed itself to some particular regulation or restriction, the latter has usually been treated as raising a purely bilateral issue between government on the one hand and a recalcitrant individual on the other, to be decided in terms of the right of the particular individual to do the thing from which government is seeking to restrain him. Any consideration of the recovery program should show the barrenness and futility of both these methods of approach, and the need for a new understanding of the problem of regulation.

Take first the approach which regards the problem of regulation as a purely bilateral one between government and the individual, and apply it, for example, to the restriction on gold withdrawals from the banks and the Treasury. Viewed from this angle, is it not an invasion of private right to forbid the individual to have something to which he is entitled? Suppose, however, we abandon the bilateral view, and regard this particular individual as but one of a series of individuals all having equally good titles to withdraw

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gold. It at once becomes apparent that there is not enough gold to go round. If one takes that to which he is entitled, another will be excluded from that to which he is equally entitled. Are we to close our eyes to this consequence and decide on the basis of treating each individual as if he stood alone? In short, in order to understand regulation, we must look at individuals not individually but as linked together by the economic processes within which they function. Those of their acts which constitute elements in the process have a bearing on the economic well-being of all who are enmeshed in the process, and cannot always be safely left to purely private determination. The individual is regulated, not as an individual, but as a unit in a process.

If regulation is conceived in this way, the argument that it entails dead uniformity and stagnation falls to the ground. Properly planned, regulation touches only activities which link the individual into a social process in which others as well as he take part. Such regulation has for its object the smooth functioning of the processes on which an industrial society such as ours depends for its economic existence. This is a very different thing from regulation for the purpose of imposing a uniform code of behavior because of its supposed moral superiority or of substituting some ready-made social pattern for the processes which have grown up in the life of the community, and on the basis of which all healthy growth must proceed.

In short, the new approach which is needed to the problem of regulation is to regard the issue, not as the general one of regulation versus no regulation, nor of much regulation versus little regulation, but instead as always a special issue of each particular regulatory measure under consideration. The proper question to ask is not whether that regulation invades some abstract right like liberty or property, but whether, on the one hand, it tends to correct a maladjustment in some social process or whether, on the other, it tends to warp and interfere with such processes. These are largely questions of practical judgment rather than of abstract reasoning.

Approached from this angle, the regulatory program of the Administration challenges judgment solely on the issue of whether it does or does not so restrain tendencies at one point and liberate them at another as to bring our economic system back into working equilibrium. It represents no effort to impose a new system

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ready-made. It represents no effort either to enlarge liberty or to restrain it. It represents simply an effort to divert activity at critical points from directions which seem to have proved themselves destructive of the functioning of our economic system. Whether the regulatory measures are aimed at the truly critical points, or whether the types of activity which they are designed to bring about are correctly chosen, it remains for the working of the regulations to reveal. The attitude of the Administration is one of trial and error. At best, the fact that most of the detailed regulations are administrative measures, rather than embodied in the statutes, should make it easier to alter them if found defective.

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THE POLITICAL THEORY OF GERMAN FASCISM[1]

FREDERICK L. SCHUMAN
University of Chicago

In dealing with the evolution of political thought, most historians and social scientists, until recently at least, have tended to view political behavior and the changing patterns of power in society as rational implementations of dynamic ideas. They have accordingly concerned themselves more with the development of abstract philosophical systems than with the social-psychological contexts conditioning this development. To other observers, more Marxian than Hegelian in their outlook, all political ideas are but reflections of the economic interests and class ideologies of the various strata of society. This school therefore probes for the secrets of political and social change, not in the surface phenomena of ideas, but in the progress of technology and in the shifting economic relations of groups and classes within the social hierarchy. Still others, few in number as yet, have adopted Freud as their guide. These pioneers, in so far as they have attempted to elaborate a distinctive psychology of politics, have delved for explanations of political theorizing in the realm of emotional adjustments and maladjustments. Both Marxians and Freudians reject Hegelian idealism and agree that all political thinking is to be regarded as a process of inventing justifications or counter-justifications for particular relationships of power. They differ in that the Marxians, in common with the classical political economists, usually postulate the rationality of the "economic man," while the Freudians insist upon the irrationality of social behavior and seek to explain it by reference to the "id-superego-ego" structure of the personality.

The rulers and thinkers of Fascist Germany regard it not merely as bad taste but as high treason to suggest that political ideas are products of economic interests or of neuroses. The Nazi *Weltanschauung* repudiates historical materialism and psychoanalysis with equal vehemence. Its Hegelianism is qualified, however, by the circumstance that it views political and social ideas, not as

[1] The author is indebted to the donors of the James-Rowe fellowship of the American Academy of Political and Social Science for an opportunity to spend part of the past year in Germany studying various phases of the National Socialist revolution.

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children of Reason, but as the off-spring of obscure subjective impulses. These impulses are emphatically not to be explained by the pernicious doctrines of the Jew, Karl Marx, nor of the Jew, Sigmund Freud. They flow from *Blut und Boden*, from nation and race, from individual genius and from the esoteric depths of the German soul. But to the Western observer, who finds in this romanticism more a symptom than a diagnosis of the political mentality of contemporary Germany, German Fascism is intelligible only in terms of the economic difficulties and the psychic maladjustments of the post-war *Kleinbürgertum*. The purpose of the present article is not to explain this paradox, nor yet to undertake a basic analysis of the political ideas of the NSDAP (*Nationalsozialistische Deutsche Arbeiterpartei*) in terms of class politics and psycho-pathology,[2] but rather to present in systematic form a brief summary of the ideas themselves.

Despite Nazi insistence on the "organic" character of the new doctrine, its exposition in an organized résumé presents peculiar difficulties. German Fascism, unlike its Italian counterpart, developed and perfected its doctrine through fourteen years of struggle before it came to power, instead of fabricating a doctrine after seizing control of the machinery of the state. But, even more than Italian Fascism, it has always been less a doctrine than a faith—mystical, cloudy, and often not only irrational but consciously *anti*-rational.[3] Anti-intellectualism has always been a dominant note in the movement. "We think with our blood" is a favorite Nazi slogan. *Blut gegen Geist* (Spengler) is a fundamental principle of National Socialism. Hitler himself has always given feeling, emotion, fanaticism, and even hysteria, precedence over calm ratiocination.[4] Nazi thinking often lacks in clarity and consistency

[2] Cf. the interesting suggestions set forth in H. D. Lasswell, "The Psychology of Hitlerism," *Political Quarterly*, vol. 4, pp. 373–384; in F. Vergin, *Das Unbewusste Europa* (Vienna, 1931), pp. 137–145; and in Ernst Ottwalt, *Deutschland erwache!* (Vienna, 1932), *passim*.

[3] Mussolini, in his article, "The Political and Social Doctrine of Fascism," *Enciclopedia Italiano*, asserts: "There was much discussion, but—what was more important and more sacred—men died. They knew how to die. Doctrine, beautifully defined and carefully elucidated, with headlines and paragraphs, might be lacking; but there was to take its place something more decisive—faith."

[4] Cf. Adolf Hitler, *Mein Kampf*, *passim*, vol. 1, 1925; vol. 2, 1927; hereinafter cited as "*M.K.*," with page references to the 17th German edition (two volumes in one), Munich, 1933. Cf. "Was wollen wir? Frei sein! Freie, deutsche Arbeiter in einem freien, deutschen Lande! Wir leben heute in einer unerhörten Knechtschaft,

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what it exhibits in fervor. Its logical integration into a system of ideas is, therefore, somewhat artificial and misleading.

It is difficult, moreover, to select authoritative party doctrine from the enormous outpouring of Nazi literature because the party has never set up a College of Cardinals to determine what is orthodox,[5] nor has it expressly forbidden its adherents and sympathizers to voice personal views for which the organization assumes no responsibility. There is, to be sure, Hitler's autobiography, *Mein Kampf*, which is now the "bible" of the movement. There is the party program of 25 points, with Gottfried Feder's commentaries, adopted February 24, 1920, and declared unalterable on May 22, 1926.[6] There is Feder's *Der Deutsche Staat* (1923), which Hitler pronounced the "catechism" of the movement at the time of its publication.[7] And there is the interesting series of official brochures in the *Nationalsozialistische Bibliothek*.[8] But many years have elapsed since the appearance of some of these scriptures. They have been followed, and at points contradicted, by thousands of more recent books, pamphlets, and speeches. A critical review of party bibliography would require hundreds of pages of digest and commentary. All that can be attempted here is a general treatment of the trend of Nazi political thought as represented by outstanding leaders and publicists.

I. RACIAL NATIONALISM

Anti-semitism and Pan-German "Aryan" nationalism are the negative and positive poles of the Nazi world-outlook. Both obviously antedate the NSDAP by many decades. The Aryan myth, with its corollary of Teutonic superiority, was first persuasively presented by Comte Arthur de Gobineau in 1852 in his *Essai sur l'inégalité des races humaines*. In 1899 the Germanized Englishman, Houston Stewart Chamberlain, published his *Die Grundlagen des*

in der Heimat und in der Welt. Zum Freiwerden gehört Fanatismus und Glut . . . Wahrer National-Sozialismus ist Instinkt, nicht Wissen. Der unwissendste Mensch mit modernem politischen Instinkt ist wertvoller für den Neubau des Reiches als der klügste und gelehrteste Intelligenzler bourgeoiser Bewegung." J. Goebbels, *Die Zweite Revolution* (Zwickau, 1926), pp. 19 and 22.

[5] At the Bamberg Conference of February, 1926, however, Gottfried Feder was designated as official interpreter of the program.

[6] *Das Programm der N.S.D.A.P. und seine weltanschaulichen Grundgedanken* von Gottfried Feder (15th ed., Munich, 1933), hereinafter referred to as "*Prog.*"

[7] 10th ed., Munich, 1933, hereinafter referred to as "*D.S.*"

[8] Munich, 1920–33, hereinafter designated as "*NSB.*"

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neunzehnten Jahrhunderts, which also affirmed the superiority of the Germans, but defined them in terms of moral qualities rather than of physical characteristics. These two works were points of departure for all later advocates of white superiority and Nordic supremacy, among whom the best known in America in recent years have been Madison Grant and Lothrop Stoddard.

In Germany, the development of the Aryan myth was closely paralleled by the growth of political anti-semitism. The emancipation of German Jewry, begun by Napoleon I in the Rhineland, was not completed until after 1848. Politically organized anti-semitism, with its religious roots stretching far back into the Middle Ages, became active in German petty bourgeois circles as soon as the *Kleinbürgertum* began to be pinched economically between organized labor and corporate business. The Jew early became the scapegoat of the resulting resentment.[9] Adolf Stöcker's *Christlich-Soziale Arbeiterpartei* flourished in Prussia in the eighties.[10] Religious, moral, and economic complaints against the Jews led eventually to the emergence of a racial myth reflected in the attitudes of the *Deutschsoziale Partei* and the *Antisemitische Volkspartei*, both established in 1889.[11] By 1893, there were sixteen anti-semitic deputies in the Reichstag. Various anti-semitic political groups have been continuously represented in the German national legislature ever since.

Hitler, without having read Gobineau or Chamberlain, and without being familiar with the anti-semitic movement in northern Germany, acquired his anti-semitic fixation in pre-war Vienna, where he struggled in his youth to keep body and soul together as a would-be architect and building trades laborer.[12] Under the influence of Karl Lüger, anti-semitic mayor of the city, he arrived

[9] Cf. E. Ottwalt, *Deutschland erwache!*, pp. 42–72, and G. Winter, *Der Antisemitismus in Deutschland* (Magdeburg, 1896), *passim*.

[10] Cf. W. Frank, *Hofprediger Adolf Stöcker und die Christlich-Soziale Bewegung* (Berlin, 1928).

[11] Cf. Eugen Dühring, *Die Judenfrage als Frage des Rassencharakters* (Berlin, 1892), reissued at Leipzig in 1930. Also, Kurt Wawrzinek, *Die Entstehung der deutschen Antisemiten-Parteien* (Berlin, 1927).

[12] "Ich kam als 17 jähriger Mensch nach Wien und lernte dort drei bedeutsame Fragen studieren und beobachten: die soziale Frage, das Rassenproblem und endlich die Marxistische Bewegung. Ich ging von Wien weg als absoluter Antisemit, als Todfeind der gesamten Marxistischen Weltanschauung, als alldeutsch in meiner politischen Gesinnung." Address to the court, February 26, 1924, in *Adolf Hitlers Reden* (Munich, 1933), p. 96.

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at the conclusion that the Jews were the source of many contemporary evils.[13] In post-armistice Germany, anti-semitism flourished in reactionary nationalist and militarist circles—nowhere more so than in Munich, where Hitler's regiment was stationed and where he began his political career by becoming "Member No. 7" of the then insignificant *Deutsche Arbeiterpartei*. Under the spell of his genius as orator and organizer, this little group became the nucleus of the NSDAP. Its 25-point program, proclaimed in the Hofbrauhaus in February, 1920, was largely Hitler's work. The leader's political ideas were already fixed. They were simple verbalizations of his ardent anti-semitism and his fanatical Pan-German patriotism, suitable for popular consumption by the crowds which gathered to hear him in the sundry beer halls of Munich. Hitler's Munich contemporaries, Gottfried Feder, preacher of strange economic doctrines, and Dietrich Eckart, drunken literary genius, played a significant rôle in the formulation of the political philosophy which came to dominate the *Hitlerbewegung*. The anti-semitic *motif* was prominent in all of Hitler's speeches during the period between the establishment of the party and its temporary eclipse after the Hitler-Ludendorff *putsch* of November 8–9, 1923.[14] It also dominated the *Deutschvölkische Freiheitspartei* of von Graefe, Wulle, and Hennig, which coöperated with the NSDAP in 1924–25 under the leadership of Ludendorff and Gregor Strasser.

Nazi appeals were addressed from the beginning to a *Kleinbürgertum* filled with resentment against capital and labor, the upper and nether mill-stones of an economic system which seemed to be grinding the German "forgotten man" into the dust. This resentment found voice in attacks upon "capitalism" and upon "Marxism," for the petty bourgeoisie felt itself being dragged most unwillingly to the social level of the proletariat through the pressure of corporate industry and finance. Trusts and trade unions were both assailed as iniquitous and "unpatriotic." With consummate skill, the Nazi leaders, in their quest, on the one hand, for funds from "big business" and, on the other, for converts from the middle classes, resolved the logical inconsistencies in this double resentment by deflecting it against the Jews. The nation, they asserted, was not menaced by a socially-minded, patriotic *German* capitalism nor by a patriotic *German* socialism, but only by international,

[13] *M.K.*, pp. 244f., 425f., 475f., etc.

[14] Cf. *Hitlers Reden, passim.*

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Jewish *Hochfinanz* and by international, Jewish-Marxist socialism. The *Kleinbürgertum* was readily convinced that its real enemies, above and below, were the Jews. Under Nazi persuasion, it perceived that all the things it had come to detest—pacifism, internationalism, Marxism, Freemasonry, Esperanto, nudism, reparations, democracy, inflation, liberalism, financial exploitation, parliamentarianism, and sexual immorality—were but phases of a Jewish plot against the Fatherland.[15] The integration of these divergent negative responses into a general assault upon the Weimar Republic, following their ideological unification through antisemitism, is the most brilliant psychological achievement of Nazi propaganda.

This process was accompanied by the elaboration of a highly ingenious theory of a Jewish world conspiracy against the "white" race. The specific content of this theory varies somewhat with the Nazi sources which are consulted.[16] Many of the charges are based upon the alleged "Protocol of the Elders of Zion," a mysterious document supposedly prepared in the mid-nineteenth century as a campaign plan of Jewish world conquest.[17] In Nazi literature, the Jews are usually viewed as a hybrid Oriental-Negro stock which, for thousands of years, has practiced "incest," i.e., endogamy, to keep itself "pure" and has, at the same time, sought to poison the blood of superior races through miscegenation.[18] Since its expulsion

[15] "Die Unterhöhlung des germanischen Persönlichkeitsbegriffes durch Schlagworte hatte schon lange begonnen. Die Begriffe 'Demokratie,' 'Majorität,' 'Weltgewissen,' 'Weltsolidarität,' 'Weltfrieden,' 'Internationalität der Kunst,' usw. zersetzten unser Rassebewusststein, züchteten die Feigheit, und so müssen wir heute sagen dass der schlichte Türke mehr Mensch ist als wir . . . Dies war die unausbleibliche Wirkung der in der Hand der internationalen Börse befindlichen Presse. Der Marxismus wurde der Zutreiber der Arbeiter, die Freimaurerei bildete für die 'geistigen' Schichten die Zersetzungsmachine, das Esperanto sollte die 'Verständigung' erlichtern. Das gegebene Bindeglied zwischen diesen Bewegungen war der allein international verbreitete nationale Jude." Hitler, September 18, 1922, *Hitlers Reden*, p. 37.

[16] Perhaps the most erudite exposition of this thesis is to be found in Alfred Rosenberg's *Der Mythos des 20. Jahrhunderts—Eine Wertung der seelische-geistigen Gestaltenkämpfe unserer Zeit* (Munich, 1930).

[17] Gottfried zur Beck (Hrsg.), *Die Geheimnisse der Weisen von Zion* (15th ed., Munich, 1933).

[18] Thus Hitler, *M.K.*, p. 357: "Der schwarzhaarige Judenjunge lauert stundenlang, satanische Freude in seinem Gesicht, auf das ahnungslose Mädchen, das er mit seinem Blute schändet und damit seinem, das Mädchens Volke, raubt. Mit allen Mitteln versucht er die rassischen Grundlagen des zu unterjochenden Volkes zu verderben. So wie er selber planmässig Frauen und Mädchen verdirbt, so schrekt

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from Palestine, this race has lived as a parasite on other peoples, practicing the ritual murder of Christian children, destroying the race purity of its victims, and seeking in every possible way to bring about the destruction of the host upon which it preys. In modern times, its primary weapons have been prostitution and syphilis, the liberal press, intermarriage, Freemasonry, parliamentary democracy, international finance, and Bolshevism.[19] More specifically, the Jews, through their alleged control of the labor movement, the Börse, the Socialist party, the liberal-Marxist press, etc., are held responsible for Germany's defeat in the Great War and for the establishment of the "Jew republic" of the "November criminals" of 1918. All of Germany's woes since the Armistice are likewise attributed to the Jews.[20] The ultimate objective of Judaism is the complete destruction of the German people through bastardization, pacifism, liberalism, and communism.[21]

The first prerequisite to the protection of Germany from this menace is the awakening of "race-consciousness" among her people. In the course of its development, the Nazi doctrine of race, as a positive creed of German superiority, has passed through many vicissitudes. The program of 1920 did not employ the now universal term "Aryan," but spoke only of "German blood" and "*Volksgenossen.*"[22] The same is true of Feder's *Der deutsche Staat.*

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er auch nicht davor zurück, selbst in grösserem Umfange die Blutschranken für andere einzureissen. Juden waren es und sind es, die den Neger an den Rhein bringen, immer mit dem gleichen Hintergedanken und klaren Ziele, durch die dadurch zwangsläufig eintretende Bastardierung die ihnen verhasste weisse Rasse zu zerstören, zu ihren Herren aufzusteigen. Denn ein rassereines Volk, das sich seines Blutes bewusst ist, wird vom Juden niemals unterjocht werden können. Er wird auf dieser Welt ewig nur der Herr von Bastarden sein."

[19] Cf. *M.K.*, pp. 270–275, p. 265f., p. 351f.; Anton Meister, *Die Presse als Machtmittel Judas*, *NSB* No. 18; Dr. Rudolf, *Nationalsozialismus und Rasse*, *NSB* No. 31; Alfred Rosenberg, *Das Verbrechen der Freimaurerei* (Munich, 1921); Friedrich Wichtl, *Weltfreimaurerei, Weltrevolution, Weltrepublik* (Munich, 1929); Gottfried Feder, *Die Juden*, *NSB* No. 45; Dietrich Eckart, *Der Bolshewissmus von Moses bis Lenin* (Munich, 1919).

[20] Alfred Rosenberg, *Die Entwicklung der deutschen Freiheitsbewegung* (Munich, 1933); Johann von Leers, *14 Jahre Judenrepublik*, 2 vols. (Berlin, 1933).

[21] Hitler, in *M.K.*, pp. 310f., traces through in detail the consecutive steps of the Jewish world conspiracy, culminating in the Communist "world revolution."

[22] *Prog.*, Punkt 4: Staatsbürger kann nur sein, wer Volksgenosse ist. Volksgenosse kann nur sein, wer deutschen Blutes ist, ohne Rücksichtnahme auf Konfession. Kein Jude kann daher Volksgenosse sein.

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Hitler, in *Mein Kampf*, used the term "Aryan" repeatedly without giving it precise definition. Rosenberg, a Baltic German émigré from Russia, is a champion of blonde, blue-eyed Nordicism, but his doctrine is scarcely acceptable to such obvious brunettes as Hitler and Goebbels. At the present time, however, the enormous Nazi literature dealing with race problems exhibits a fair degree of uniformity, thanks to the work of Hans Gunther, appointed "professor of social anthropology" at the University of Jena by Minister Frick in June, 1930. In the evolution of the Aryan myth, Gunther is the successor of Gobineau and Chamberlain. In his voluminous writings,[23] he depicts the Germans as a blend of six "races": Nordic, Westic, Dinaric, Ostic, Baltic, and Falic. The Nordic element, constituting only six to eight per cent of the population, has been decimated by war, emigration, and tuberculosis, but is the most valuable biological element in the nation. It is probable, according to Gunther, that all creative cultural endeavor in all ages and in all civilizations was the work of a minority blessed with Nordic blood. Every effort must therefore be made, through race hygiene and eugenics, not only to protect the nation from the "Jewish ferment of decomposition," but to increase the proportion of Nordic stock in the population. Gunther's ideas have constituted a point of departure for a whole army of scholars who have propounded his gospel in a bewildering variety of works.[24]

The political implications of the new anthropology have furnished the ideological basis for many of the decrees of the dictatorship. The original party program called for the disfranchisement and expatriation of Jews (Points 4 and 5), the granting of official appointments only to citizens (Point 6), a ban on non-German immigration and the expulsion of all non-Germans who entered the Reich after August 2, 1914 (Point 8), the protection of mothers and infants, the suppression of child labor, and the fostering of sports and gymnastics (Point 21), and the expulsion of the Jews from

[23] *Der Nordische Gedanke unter den Deutschen, Rassenkunde Europas, Rassenkunde des deutschen Volkes, Rassenkunde des jüdischen Volkes, Adel und Rasse*, etc. (Munich, 1927f).

[24] Cf. Halfdan Bryn, *Der nordische Mensch;* Paul Schultze-Naumburg, *Kunst und Rasse;* Josias Tillenius, *Rassenseele und Christentum;* L. Schemann, *Hauptepochen und Hauptvölker der Geschichte in ihrer Stellung zur Rasse;* L. Clauss, *Von Seele und Antlitz der Rassen und Völker;* F. Lenz, *Menschliche Auslese und Rassenhygiene;* H. W. Siemens, *Vererbungslehre, Rassenhygiene und Bevölkerungspolitik;* M. Staemmler, *Rassenpflege im völkischen Staat* (all Munich, 1927–33), etc., etc.

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journalism (Point 23). The Nazi state is conceived to be a "racial" state whose first care should be the biological fitness and racial purity of its citizens.[25] Up to the time of writing, the Jews have not yet been disfranchised or deprived of citizenship, but they have been expelled from all public and quasi-public offices and subjected to a variety of educational, vocational, and social restrictions. Mixed marriages may be dissolved at the option of the Aryan party and will in the future become a penal offense under the new criminal code. The sterilization of persons with "hereditary diseases" began on January 1, 1934. The minister of economics in the Hitler cabinet once proposed that all German women be divided into four classes: only the first, consisting of racially pure Nordics, would be permitted to marry the new noblemen of the Third Reich; those of the second class might be qualified to marry after a period of probation; third class women might marry inferior men, but the husbands must be sterilized to prevent procreation; fourth class women might neither marry nor have children.[26] Alfred Rosenberg, in his *Mythos des 20. Jahrhunderts,* has urged polygamy for the Nordic nobility on eugenic grounds. These suggestions have not yet been acted upon officially, but "non-Aryans," i.e., Jews, have already been reduced to the level of a pariah caste and further legislative measures designed to purify the race and to increase the population are to be anticipated.

The race myth plays the same rôle in the Nazi cult of racial nationalism as the class myth in the Marxian world outlook. The new Germany envisages world history as a conflict between races. The white, or "Aryan," race is the source of all culture, the Negro is an inferior breed, and the Jew is the source of all corruption. The Germans represent the highest point of Aryan development. They must insist upon "honor," "freedom," and "equality of rights" with the victors of 1918.[27] The Pan-German "racial state" of the

[25] Cf. *M.K.*, pp. 425–448, and Rudolf Roebling, "Staat und Volk," in *Hochschule für Politik der N.S.D.A.P.* (J. Wagner und A. Beck, Hrsg.) (Munich, 1933).

[26] Walter Darré, *Neuadel aus Blut und Boden* (Munich, 1930).

[27] These were the slogans of the election campaign of October–November, 1933. The magic potency of the words "*Ehre*" and "*Gleichberechtigung*" among the National Socialist *Kleinbürgertum* is perhaps not unrelated to the circumstance that most of the Nazi leaders and the great majority of their followers, as members of a social class suffering from lack of prestige, are afflicted with unconscious inferiority feelings. These feelings have been transferred to the symbols of race and nation, and find expression in discrimination against the Jews, in the prevalent national

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future must include within its borders all German-speaking peoples in Europe. It must follow the heroic traditions of the Teutonic Knights and win land in the East to insure its future. This task demands the spiritual unification of the nation and the passionate devotion of all Germans to the cause.[28] It requires the denunciation of the peace treaties and the building of a Greater Germany with more land and colonies.[29] It requires parity of armaments with the Reich's neighbors and an alliance with Great Britain and Italy.[30] The enemies of the future are France, land of democracy, Freemasonry, and Jewish-Negro militarism, and Russia, citadel of the Jewish *Weltpest*—Bolshevism. Germany, militarily invincible, was "stabbed in the back" in 1918 by the Jewish-Marxist traitors. With the liquidation of the Jewish menace and the "November criminals," the way will be clear for the fulfillment of the German mission and the realization of the Pan-German dream.[31]

II. THE NEW SOCIALISM

Successful politicians must always identify themselves with words and other symbols which already evoke favorable responses from those to whom they are addressed. In the United States, the adjective "socialist" has long been a term of opprobrium, since it calls forth negative reactions from the masses. In Germany, on the contrary, "socialism" has long been a synonym for social progress. Thanks to decades of Social Democratic propaganda, even the term "social revolution" sounds attractive rather than repellant to the proletariat and the lesser *Kleinbürgertum*. Anti-semitic and

"persecution complex," and in chauvinistic braggadocio. In his final election appeal to the German workers, Hitler declared: "Ich habe mich niemals als Privatmann in eine vornehme Gesellschaft eingedrängt, die mich nicht haben wollte, oder die mich nicht als gleichwertig ansah. Ich benötige sie dann nicht, und das deutsche Volk hat genau soviel Charakter! Wir sind nicht irgendwo als Schuhputzer, als Minderwertige beteiligt. Nein, entweder gleiches Recht, oder die Welt sieht uns auf keiner Konferenz mehr!" (*Völkischer Beobachter*, Nov. 11, 1933.)

[28] Hitler, *M.K.*, p. 475: "Die Angst unserer Zeit vor Chauvinismus ist das Zeichen ihrer Impotenz . . . Die grössten Umwälzungen auf dieser Erde wären nicht denkbar gewesen, wenn ihre Triebkraft statt fanatischer, ja hysterischer Leidenschaften nur die bürgerlichen Tugenden der Ruhe und Ornung gewesen wäre."

[29] *Prog.*, Punkten 1–3.

[30] Cf. *M.K.*, pp. 689–705.

[31] Cf. Gustav Sondermann, *Der Sinn der völkischen Sendung* (Munich, 1924); Heinrich Mass, *Deutsche Wehr*, *NSB* No. 47; *M.K.*, pp. 726–758; J. Goebbels, "Nationalsozialismus als Staatspolitische Notwendigkeit," in *Nationalsozialistisches Jahrbuch, 1933*, pp. 208–214.

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reactionary groups of super-patriots in post-war Munich adopted such terms as a matter of course in their efforts to win a popular following. In the period of his preliminary political groping, Hitler toyed with the name "Social Revolutionary party." The "German Labor party" of Anton Drexler added the adjectives "national" and "socialist" to its name shortly before Hitler became a member in 1919. Anti-Marxism was from the outset the corollary of anti-semitism, but this did not deter Hitler from using red flags and posters and calling his enemies "bourgeois" in his efforts to attract supporters.

"National Socialism," however, is more than a campaign catch-word. Hitler, unlike Mussolini, was never himself a Marxian socialist. But his movement, like its Italian counterpart, has championed "socialism" vigorously—a purified, patriotic, non-Jewish, anti-Marxist, "national" socialism. This conception of a purely national socialism, in opposition to Marxian internationalism, is of course not new. The old Prussian state of Frederick the Great is the historical prototype of the Nazi ideal. Fichte advocated a comparable conception of the ideal state early in the nineteenth century. In the development of the German labor movement, Ferdinand Lassalle's socialism was distinctively national in contrast to Marxism. Paul de La Garde, professor of theology at Göttingen, preached a similar doctrine of a Pan-German, authoritarian, "social" state in the eighties, but without result. In 1896, Friedrich Naumann established the "*Nationalsoziale Verein*," but he was also a prophet in the desert. In 1922, Moeller Van Den Bruck published *Das Dritte Reich*, in which the idea of a German, anti-Marxian, anti-liberal socialism was clearly set forth.[32]

The precise political and economic implications of this brand of socialism, however, have been shrouded in a certain obscurity. The familiar Nazi slogans, "*Freiheit und Brot*" and "*Gemeinnutz geht vor Eigennutz*," throw little light on the problem.[33] Hitler's economic ideas in the period prior to the formulation of the program were largely molded by Gottfried Feder, who preached social salvation through "breaking the bonds of interest slavery" ("*Brechung der Zinsknechtschaft*"). According to his doctrine, there are two kinds of capital: national, creative, Aryan capital, and in-

[32] Hanseatische Verlag, Hamburg, 1922, 3rd ed., 1931.

[33] Goebbel's formulations are scarcely more illuminating. Cf. his *Das kleine ABC des Nationalsozialisten* (Greifswald, 1925), pp. 5 and 9.

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ternational, exploitive, Jewish capital (*Börsen- und Leihkapital*). This distinction came to Hitler like a revelation. He perceived "like a flash" that the real purpose of Marx and his followers in attacking the productive capital of the national economy was to pave the way for the domination of Jewish, international finance-capital. The Feder creed was incorporated into the party program. The "socialistic" proposals in the Twenty-five Points prescribe the duty of all citizens to work (Point 10), the abolition of incomes unearned by work (Point 11), the ruthless confiscation of war profits, the nationalization of all businesses which up to the present have been organized into trusts, profit-sharing in wholesale trade, old age pensions, municipalization of large department stores and their leasing out at low rates to small merchants, the death penalty for usurers, profiteers, etc., prevention of speculation in land, abolition of interest on land mortgages, and confiscation of land for community purposes (Points 12–18). On April 13, 1928, Hitler rendered an official interpretation of the last proposal in which he explained that since the NSDAP "admits the principle of private property," the demand for the confiscation of land could refer only to land illegally acquired or used contrary to the national welfare. The proposal, he said, was "directed in the first instance against the Jewish companies which speculate in land."

These proposals, as well as Feder's economics, reflect a desire on the part of the Nazis to make political capital of the hostility toward "big business," chain stores, and mortgage-holders among the peasantry and small bourgeoisie. This hostility was in part deflected upon the Jews,[34] but the political exigencies of Nazi strategy have never made possible the clear formulation of an intelligible economic program. Goebbels designated "*Kapitalismus*" as the chief enemy of National Socialist freedom, and asserted that Marxism was incapable of overcoming this enemy because its leaders worked hand in hand with the representatives of "*Börsen-*

[34] "Ganz entgegen dem jüdisch-materialistischen Geiste aber ist die Brechung der Zinsknechtschaft, die in den Punkten 11–19 des Programms ihren Ausdruck gefunden hat. Mit dem Augenblick, wo die Zinsknechtschaft und der ihr zugrunde liegende Goldwahn—die Goldvaluta—gebrochen sind, ist im Staatsleben der jüdisch-materialistische Geist auf dem Gebiete der gesamten Wirtschaft gebrochen, und der Träger und Nutzniesser der Zinsknechtschaft, in der wir uns befinden, und des ihr zugrunde liegenden Goldwahns ist seiner Gewalt über uns beraubt und wird darum nicht mehr der Vampyr am Volkskörper sein können, der er heute ist." G. Feder, *Die Juden*, pp. 8–9.

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kapital" and are of the same Jewish race.[35] But Nazi definitions of "socialism" have seldom been consistent or clear. Feder's efforts to distinguish between "loan-capital" and "productive-capital" have remained incomprehensible to uninitiated economists. He, along with other Nazi leaders, has at various times proposed the abolition of the gold standard, the repudiation of public debts (especially reparations), the non-contraction of future public debts, the abolition of taxes, and the financing of public works by certificates (the so-called "*Federgeld*") secured by the works themselves.[36] But an organic economic doctrine of the party has never emerged. Inconsistency and incomprehensibility, however, are more often political assets than liabilities in winning the masses. In May, 1930, in the course of a debate in Berlin with Otto Strasser, then leader of the left wing of the party, Hitler disclaimed any intention of disturbing business in the event of his securing power.[37] The radical economic proposals of the original program have repeatedly been reinterpreted to assure the business world that no dangerous financial or economic experiments were to be anticipated from a Nazi government.

The course of events since January 30, 1933, has confirmed the impression that "National Socialism" is far more national than it is socialism. Except for the labor unions, German economic institutions have undergone no revolutionary alteration. No property has been confiscated save that of the unions and of the political enemies of the Nazi régime. Banks have continued to operate as before. The stock market has done business as usual. Interest rates have

[35] Goebbels, *ABC*, p. 13: "Dann sind also die Nationalsozialisten die Beschützer der Industrie-Kapitalisten? Durchaus nicht! Sie wollen diese Industrie-Kapitalisten zwingen, dem Arbeiter Eigentumsrecht zu geben an dem Werke, an dem er arbeitet. Aber sie wissen sehr wohl, dass das nicht möglich ist, wenn nicht zuerst die Knechtschaft unter der Zinspeitsche der Judenbörse beseitigt ist." Goebbels here defines the "Brechung der Zinsknechtschaft" quite simply as "die Beseitigung der tyrannischen Geldgewalt der Börse in Staat und Wirtschaft, die das schaffende Volk ausbeutet, moralisch verseucht und zum nationalen Denken unfähig macht."

[36] Cf. G. Feder, *D.S.*, pp. 135–142, and *Das Manifest zur Brechung der Zinsknechtschaft des Geldes* (Munich, 1919); Hans Buchner, *Die Goldene Internationale*, *NSB* No. 3, and *Grundriss einer nationalsozialistischen Wirtschaftstheorie* (Munich, 1930); Heinrich Dräger, *Arbeitsbeschaffung durch produktive Kreditschöpfung*, *NSB* No. 41; Ferdinand Fried, *Das Ende des Kapitalismus* (Jena, 1931).

[37] Cf. Otto Strasser, *Ministersessel oder Revolution?* (Berlin, 1930), with text of debate and statement of Strasser's reasons for leaving the NSDAP. A detailed, though hostile, analysis of the party's economic program is to be found in F. David, *Ist die NSDAP eine sozialistische Partei?* (Vienna, 1933).

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not been tampered with. Inflationary experiments with the currency have been avoided up to the time of writing. No trusts or other businesses have been nationalized. No department stores or chain stores have been municipalized or leased to small merchants. Such interference with private business as has taken place has been inspired by private grudges or ambitions, and has been strongly curbed by the party leaders. All business organizations, to be sure, have been subjected to the universal process of *Gleichschaltung* whereby the predominance of Nazi influence has been assured. A highly organized system of quasi-public assistance for the jobless has been instituted, involving numerous collections and contributions from all employed workers. The "winter relief" campaign of 1933–34, based on subscriptions and donations from everyone not completely destitute, has been presented by the authorities as "true socialism" and "socialism of the deed." But it is obvious that German capitalism and the whole socio-economic structure of German society remain unchanged in all fundamentals.

In Fascist Germany, as in Fascist Italy, the new socialism in practice has meant the destruction of Marxism and the suppression of the independent trade unions, along with the integration of professional and business associations and the introduction of certain measures designed to promote "economic planning." Autarchy has been championed in principle, but moderated in practice. The welfare of the peasantry has been a special care of the Nazi régime, for the peasantry is regarded as the source of old Germanic virtues and the backbone of national strength.[38] The *Kleinbürgertum* has likewise been given special protection, though its material benefits have not thus far kept pace with the psychic satisfactions it has derived from the "national awakening." Corporate industry and finance have welcomed the absence of labor troubles in the new Germany, while labor has seen its Marxist parties destroyed and its unions converted into cogs in the Nazi *Deutsche Arbeitsfront.* The Nazi movement, while promoting the complete organization of labor, insists that its organizations shall not be weapons of class struggle, but merely agencies to represent occupational interests.[39] Since March 5, 1933, there have been no strikes in Germany.

[38] Cf. Walter Darré, *Das Bauerntum als Lebensquell der Nordischen Rasse* (Munich, 1929).

[39] Hitler, *M.K.*, p. 675: "Nicht die Gewerkschaft ist 'klassenkämpferisch,' sondern der Marxismus hat aus ihr ein Instrument für seinen Klassenkampf gemacht.

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III. THE THIRD REICH

The Nazi conception of the state is an outgrowth of the racial-national-social *Weltanschauung* which has already been outlined. This conception postulates the inequality of men, the subordination of individual liberty to national "freedom," the rule of an élite, and unlimited power over the nation, accompanied by unlimited responsibility to God and the people, on the part of a dictator. A political order based upon these postulates is regarded as the logical corollary of an economic and social order based upon private property, the profits system, individual initiative, and inequality of wealth and income. The liberal order of democratic parliamentarianism is viewed as a dangerous anachronism. The economic analogue of democracy is not capitalism, but communism. The political analogue of capitalism is not democracy, but oligarchy and dictatorship, which, under contemporary conditions, are regarded as prerequisites to national strength and to the preservation of the established social and economic hierarchy. The organic, corporative, authoritarian state, by preventing class conflict, destroying Marxism, and suppressing pacifism and internationalism, will at the same time revitalize private-property economy and unify the nation for the accomplishment of its mission.[40]

From a genetic point of view, the Nazi state-theory, like that of Italian Fascism, is largely a product of the party's war against parliamentary democracy. Just as the racial doctrine of Aryan supremacy emerged out of attacks upon Jewry, so the political doctrines of National Socialism emerged out of assaults upon the

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Er schuf die wirtschaftliche Waffe, die der internationale Weltjude anwendet zur Zertrümmerung der wirtschaftlichen Basis der freien, unabhängigen Nationalstaaten, zur Vernichtung ihrer nationalen Industrie und ihres nationalen Handels und damit zur Versklavung freier Völker im Dienste des überstaatlichen Weltfinanz-Judentums."

[40] This interesting line of reasoning, which incidentally is also quite acceptable to extreme Marxians, was persuasively presented by Hitler in his address of January 27, 1932, before the west German industrialists in the Industry Club of Düsseldorf: "Es ist ein Widersinn, wirtschaftlich das Leben auf dem Gedanken der Leistung, des Persönlichkeitswertes, damit praktisch auf der Autorität aufzubauen, politisch aber diese Autorität der Persönlichket zu leugnen und das Gesetz der grösseren Zahl, die Demokratie, an dessen Stelle zu schieben . . . Der politischen Demokratie analog ist auf wirtschaftlichem Gebiet aber der Kommunismus." *Vortrag Adolf Hitlers vor westdeutschen Wirtschaftlern im Industrie-Klub zu Düsseldorf am 27. Januar 1932* (Munich, 1932), p. 10.

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"system" of the Weimar Republic. These doctrines, in their present form, are nowhere expressly stated in the Twenty-five Points of 1920. The original program championed equality of rights and duties of citizens (Point 9), denounced Roman law as a servant of "the materialistic world order" (Point 19), called for the formation of a national army (Point 22), demanded the suppression of liberty of education and of the press (Points 20 and 23), and upheld religious liberty while combatting "the Jewish materialist spirit" (Point 24). The last point asserted:

> That all the foregoing may be realized, we demand the creation of a strong central power in the Reich; unquestioned authority of the politically centralized Parliament over the entire Reich and its organizations; and formation of chambers for classes and occupations for the purpose of carrying out the general laws promulgated by the Reich in the various states of the confederation.

Here, amid faint echoes of bourgeois liberalism, one finds no clear demand for dictatorship and governmental absolutism. Neither is this demand voiced in Feder's original commentary on the program. But in the course of its campaign for popular support in competition with the democratic and Marxist parties, the NSDAP attacked the political ideology of the Weimar constitution and gradually formulated its own anti-Marxian, anti-democratic, anti-parliamentary political creed. This creed is presented somewhat tentatively in Moeller Van Den Bruck's *Das Dritte Reich* (1922).[41] It can be seen taking more definite form in Feder's *Der deutsche Staat* (1923).[42] It receives even clearer expression in Hitler's *Mein Kampf* (1925–27). Here one finds bitter denunciation of such elements of liberalism as existed in the Hohenzollern Empire and reiterated indictments of political democracy and majority rule. Democracy is presented as the forerunner of Marxism. As against the democratic state forms which emerged from the French Revolu-

[41] Cf. pp. 69–122. The mystic conception of an ideal "Third Reich" to succeed the Hohenstaufen Empire of the Middle Ages and the modern Empire of Bismarck and William I was not invented by the NSDAP, but was prevalent in all reactionary circles during this period.

[42] For example, p. 31: "Der Diktator muss vollkommen frei sein von allen unnötigen Hemmungen und Bedenklichkeiten, für ihn darf es keine Zwangsläufigkeiten geben, denn er muss es sein, der Geschichte macht, er greift mit kühner, entschlossener Hand zu, wenn seine Stunde da ist, er verkörpert die Sehnsucht der Nation, und deshalf irrt er nie und wird getragen von der fanatischen Liebe derjenigen, denen seine Tat Befreiung bringt. Er muss zu hassen verstehen, so stark und rücksichtlos, wie er sein Volk und seine heilige Aufgabe liebt."

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tion, Hitler champions true "Germanic democracy," involving the free election of an all-powerful leader who will decide all questions without recourse to the majority principle.[43]

The subsequent development of this doctrine was shaped by the exigencies of the Nazi fight for power. After the disaster of the Munich *putsch* of November 8–9, 1923, the party renounced revolutionary violence as a method of overthrowing the Weimar system and repeatedly insisted upon the "legality" of its tactics. Legality required the party to seek the favor of a majority of the electorate through the use of "democratic" campaign methods. The party itself, however, became anti-democratic in its structure as soon as Hitler assumed leadership. The election of party leaders as well as discussions and votes on party policies were abolished as early as 1921. In the years that followed, the intricately hierarchical and completely autocratic party machine of the NSDAP, with *Der Führer* exacting unquestioning obedience from his subordinates, progressively conquered the emotions of the masses by means of a perfected technique of high-pressure advertising. The dictatorial structure of the party simultaneously gave it unity and power in electoral contests and helped to build the illusion in the minds of the masses that Hitler was a heaven-sent Messiah in whom all political wisdom resided. In Hitler's own view, the principle of the party structure was identical with the principle upon which the old Prussian army was organized: authority from the top down, responsibility from the bottom up.[44]

This principle has now become the basis of the German Fascist state. It is the antithesis of parliamentarianism, which prescribes that authority shall be conferred upon political leaders from below and that the lines of responsibility shall run from those who wield power to those who have chosen them and conferred power upon them. "Responsible government" in the Western democracies means either the responsibility of the executive to the legislature or the responsibility of both to the electorate. In the new Germany, the electorate and the party are responsible to *Der Führer*. Since men are unequally endowed, and since all human organiza-

[43] Cf. *M.K.*, pp. 85, 89, 99, 296–305, 649–662.

[44] *M.K.*, p. 501: "Der Grundsatz, der das preussische Heer seinerzeit zum wundervollsten Instrument des deutschen Volkes machte, hat in übertragenem Sinne dereinst der Grundsatz des Aufbaues unserer ganzen Staatsauffassung zu sein: Autorität jedes Führers nach unten und Verantwortlichkeit nach oben."

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tions are pyramids of power, the conceptions of mass participation in government and of government by numerical majorities are deemed to be obviously absurd and contrary to "natural law.[45] The first task of the National Socialist revolution was the liquidation of this dangerous heresy.[46] Constitutional forms are of no importance. What is important is the *Führerprinzip*, the rôle of personal leadership, the concentration of responsibility in the hands of the few, the exercise of power by a new élite.

This élite is answerable to the dictator. And the dictator is answerable only to God—and to the people. His relationship to God remains as nebulous as was that of the divine-right monarchs of old. His relationship to the people has not yet been defined with complete clarity in Nazi theory and practice. In 1926, Goebbels could say: "The great leader will not be elected. He is there when he must be there!"[47] In 1933, Hitler insisted that he held power by a broad popular mandate.[48] The election of November 12, 1933, was ordered for the announced purpose of convincing the world of this fact. The "yes-no" referendum on foreign policy appears, in principle, to be contrary to Hitler's original dictum that the leader,

[45] Thus, Hitler's closing address to the Nürnberg party convention of 1933: "Dass aller Menschen in einer Nation fähig wären, einen Hof oder eine Fabrik zu verwalten oder deren Verwaltung zu bestimmen, wird bestritten. Allein, dass sie alle fähig sind, den Staat zu verwalten oder dessen Verwaltung zu bestimmen, wird im Namen der Demokratie feierlichst attestiert. Es ist dies ein Widerspruch in sich. Entweder die Menschen sind infolge gleicher Fähigkeit in der Lage, alle gleich einen Staat zu verwalten, dann ist die Aufrechterhaltung des Eigentumsgedankens nicht nur ein Unrecht, sondern einfach eine Dummheit. Oder die Menschen sind wirklich nicht in der Lage, das gesamtgeschaffene materielle und kulturelle Gut einer Nation als gemeinsames Eigentum in gemeinsame Verwaltung zu nehmen, dann sind sie noch viel weniger in der Lage, den Staat gemeinsam zu regieren!" (*Völkischer Beobachter*, Sept. 5, 1933).

[46] Minister-President Göring in his address of September 15, 1933, declared: "Im alten Parlament galten Autorität und Verantwortung im umgekehrten Sinne. Die Verantwortung ging von oben nach unten und die Autorität ging von unten nach oben. Das war die Sünde wider ein Naturgesetz und daran musste er langsam aber sicher zerbrechen. Hier aber gilt das alte Prinzip: Die Autorität geht von oben nach unten, die Verantwortung aber immer von unten nach oben. Verantwortlich sind Sie dem Nächsten, der über Ihnen zu stehen berufen ist. Die letzte Verantwortung trägt der Führer, und er trägt sie vor seinem Gott und seinem Volk." (*Völkischer Beobachter*, Sept. 16, 1933).

[47] *Die Zweite Revolution*, p. 5.

[48] In the election of March 5, 1933, the NSDAP secured less than 44 per cent of the total votes cast. The Hitler cabinet, however, was supported by Hugenberg's Nationalists and the 288 Nazi deputies secured a majority in the Reichstag of 647 members through the arrest of the 81 Communist representatives.

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once elected, assumes full responsibility for his acts without regard to majorities. The Reichstag ballot however, was prepared in accordance with sound Nazi doctrine: the voter could do nothing save approve the Nazi list or invalidate his ballot. But these logical discrepancies offer no difficulty to the convinced National Socialist. He accepts unreservedly Treitschke's "great man" theory of history. Italian Fascist doctrine asserts: "Mussolini is always right." The good citizen in the Third Reich subscribes to a similar principle: "*Hitler hat immer recht!*"[49] Propaganda is more important than violence in securing popular acquiescence in the new dispensation. Strenuous efforts have been made to indoctrinate the entire population with the new political faith. In the minds of the masses, the symbols and slogans of the NSDAP have already been identified with the integrity and well-being of the nation. This work of political education began years before the Nazis attained power and was in fact the chief secret of their electoral successes. Since March, 1933, all other propagandas have been suppressed and every conceivable agency of public enlightenment has been utilized to build up the verbal associations and emotional responses which will ensure the perpetuation of the Fascist régime. The Nazi leaders long ago learned to appreciate the supreme importance of this work of psychological preparation. The necessity of incessant propaganda is now an article of faith with the new rulers. Gigantic mass demonstrations and solemn political rituals represent only a phase of this work. Through the Ministry of Enlightenment and Propaganda, and through an elaborate mechanism of censorship, subsidies, and social pressures, the task of holding the loyalty of the masses is entrusted to the press, the radio, the theater, the cinema, the church, and the school. The rising generation, from kindergarten to university, is treated to a curriculum in which physical training, political indoctrination, and moral education are given definite precedence over the imparting of knowledge. The objective is not the conversion of a majority of the population (this has long since been achieved), but unanimous and unquestioning con-

[49] M. A. Schlitter, "Wirtschaftsbegriffe und ihre Problematik," *Hochschule für Politik der NSDAP*, p. 132. Cf. Göring to the Prussian *Staatsrat*, September 15, 1933: "Über allem, meine Herren, und über alle Auffassungen hinaus steht für die Nationalsozialisten eins: die Treue zum Führer. Was der Führer will, wird getan. Sein Wille ist uns Gesetz, und so geschieht es, aber nicht erzwungenermassen, sondern in freudiger Bejahung dieses Grundsatzes: der Schaffung eines einigen Reiches, der Schaffung der Geschlossenheit des Volkes."

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formity to the new creed. This unanimity, obtained by a combination of high-pressure propaganda, suppression of organized opposition, and intimidation of individual dissenters, was strikingly demonstrated in the election of November 12, 1933.[50]

As apostles of *Realpolitik*, however, the rulers of the Third Reich have never neglected to emphasize the decisive rôle of force, in both internal and foreign politics. They envisage the state not only as an expression of a *Weltanschauung*, but as an embodiment of armed violence to be used against domestic and foreign foes. "Might is right" is sound Nazi doctrine.[51] Political power divorced from military force is regarded as a contradiction in terms.[52] Hitler, in his autobiography, takes the inevitability of war for granted.[53] So long as Germany remains disarmed among heavily armed neighbors, expediency dictates that saber-rattling shall be figurative only and shall be accompanied by repeated assurances of peaceful intent. But, woven into the warp and woof of the political doctrine of German Fascism are the heroic military traditions of the Prussian past, the legend of German invincibility in war, the *Heldentum* ideal of knights in armor, and the deepest deference toward the vocation of the soldier. The Nazi government leaves to foreign observers the academic task of debating whether these things constitute "militarism." For its own part, it is content to profess peace and, at the

[50] Of the 45,146,277 qualified voters, 43,460,529 (96.3 per cent) participated in the referendum, and 42,995,718 (95.2 per cent) participated in the Reichstag balloting. Of the former, 40,609,243 (93.5 per cent) voted "Yes"; of the latter, 39,646,273 (92.1 per cent) voted for the Nazi list. On the Nazi conception of education, cf. *Prog.*, Pt. 20; *M.K.*, pp. 452–476; Ernst Krieck, *Nationalpolitische Erziehung* (Leipzig, 1933); Rudolf Buttmann, "Nationalsozialismus und Volksbildung," *Nationalsozialistisches Jahrbuch*, 1933, pp. 193–197; F. A. Beck, "Die pädagogische Problematik der Gegenwart als nationalpolitische Aufgabe," *Hochschule für Politik*, pp. 34–42.

[51] "Erst wenn Deutschland wieder eine Macht darstellt, wird es auch wieder zu seinem Recht kommen" (Goebbels, *ABC*, p. 7).

[52] Feder, *D.S.*, p. 29: "Ohne Macht kein Staat, ohne Autorität keine Regierung. Nichts ist selbstverständlicher . . . Macht ohne ein Machtinstrument ist undenkbar; politische Macht und militärische Machtmittel bedingen sich gegenseitig so innig, wie sich Wirtschaft und Sittlichkeit nicht voneinander trennen lassen. Um verlorene Macht wiederzugewinnen, gibt es nur das einzige Mittel, ein militärisches Machtinstrument wieder zu schaffen."

[53] Cf. *M.K.* especially pp. 156f., 363–369, 684f., 708–725, etc. Cf. Feder, *D.S.*, p. 31, in speaking of the Dictator: "Zur Erringung seines Zieles darf er auch vor Blut and Krieg nicht zurückschrecken, er darf nicht ruhen und rasten, bis sein Ziel erreicht ist."

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same time, to spare no effort to awaken martial enthusiasm among its subjects.[54]

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Such, in résumé, are the dominant political ideas of Fascist Germany. These ideas are less a product of the erudite elaboration of the theories of nineteenth-century thinkers than an expression of non-rational patriotic emotionalism prevalent in the post-war Reich. But since mass emotions are always verbalized in terms of word-patterns already current in a culture, it is but natural that discerning observers should perceive the roots of the Fascist doctrine deep in the German past. This ideational legacy has often been minimized by the Nazi spokesmen themselves, for they have found it good politics to present their creed as a *de novo* creation, born of mysterious revelations and Messianic visions. *Der Führer* himself has frequently said, in effect, "*L'ideé, c'est moi!*" Being unblessed with higher philosophical erudition, he did not consciously borrow his ideas from older sources. But he evolved them obviously out of feelings and word-patterns already widespread in central Europe. The Nazi dogma, like every dogma, has been fabricated out of materials already at hand. Neither the cleverness of the design nor the heaviness of the ornamentation can conceal the fact that the new temple has been built out of old wood.

The identity of the various pieces of lumber in the ideological "Brown House" of Hitlerism is clearly perceptible. The creed of racial nationalism, with its emphasis on the unique superiority of German (Aryan) virtues, is perhaps the oldest component element in the new faith. Tacitus, in his *Germania*, was the unwitting founder of this creed. Frederick the Great and Bismarck contributed powerfully to its development by their words and deeds—and by the not-too-accurate recollection of their words and deeds which is now prevalent. The Aryan myth of Gobineau and Chamberlain has been merged with the German nationalist tradition of Fichte and Treitschke. Hegel's theory of history and his doctrine

[54] Oberst Heinrich Kirschheim, in "Die deutschen Heere von den germanischen Volksheeren bis zum Reichsheer," *Hochschule für Politik*, p. 122: "Vordebingung für Erringung unserer Freiheit ist die Schaffung eines Heeres von angemessener Stärke. Vorbedingung dafür ist die Erweckung des Wehrwillens im Volke. Es muss wieder als Ehrenpflicht eines jeden Deutschen angesehen werden, zur Verteidigung der Heimat im Heere zu dienen, Pflicht eines jeden Deutschen ist es deshalb, die pazifistische Propaganda zu bekämpfen und dadurch den Kampf unseres Führers um Deutschlands Befreiung zu unterstützen."

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of state absolutism have been blended with Nietzsche's fiery gospel of the Blonde Beast and the Superman. La Garde and Naumann contributed decades ago to the fusing of anti-Marxian socialism with the ethnocentric megalomania of the Pan-German League. Othmar Spann[55] and Oswald Spengler[56] are in part responsible for the economic and historical outlook of the NSDAP. The anti-democratic ideology of the party is as old as democracy and tyranny themselves.[57] The conceptions of occupational representation and of an economic parliament are likewise not new.[58] A somewhat old-fashioned Darwinism, a highly fashionable creed of neo-mercantilism, and an eternal military romanticism serve to complete the pattern of the Nazi *Weltanschauung*. Each element in the design is old. But the ensemble is new and resplendent in dazzling colors. Even the critical connoisseur who is unwilling to concede its merits as a piece of original political theorizing must at least grant that it is a work of sheer genius as a masterpiece of practical political psychology.

The direct influence of Italian Fascist theory on the German movement is perhaps less than is commonly supposed abroad. Hitler, to be sure, has taken Mussolini as his model and has borrowed the colored shirt, the Roman salute, and the legion standards of his *Sturmabteilung* battalions from *Fascismo*. But the obvious similarity of state forms and political ideas in Italy and Germany is due less to imitation than to similar sequences of causes and effects. In both countries, the frustration of national ambitions and the economic and psychic insecurities in the post-war position of the propertied classes created comparable social tensions and collective emotional maladjustments. Similar phenomena are observable in post-war Japan, with similar symptoms: fervent antipathy to Marxism, liberalism, pacifism, and internationalism

[55] Cf. his *Der wahre Staat* (Leipzig, 1921), and *Gesellschaftslehre* (Leipzig, 1930).

[56] Spengler might be said to have predicted Hitlerism fifteen years ago in his *Untergang des Abendlandes*. Now, however, he sees in the Third Reich, not a manifestation of the revolt against reason, the embattled demogoguery, and the cheap Napoleonism which he forecast for the twentieth-century world, but a noble expression of German grandeur and might. Cf. his *Jahre der Entscheidungen* (Munich, 1933).

[57] Most of the charges leveled by the Nazis against democracy can be found in B. E. Faguet's *The Cult of Incompetence* (1902). A comparison of Nazi doctrine with the ideas of Bodin, Bossuet, and Hobbes is also not uninteresting.

[58] Cf. Charles Benoist, *La crise de l'état moderne* (1897), and the voluminous literature of British guild socialism.

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and equally fervent enthusiasm for belligerent nationalism, political absolutism, and military heroism. In Italy and Germany, other elements in the Occidental cultural context, e.g., Freemasonry and political Catholicism, have also been the scapegoats of the prevalent resentments. For obvious reasons, German anti-semitism and the Nordic cult have had no counterparts south of the Alps. In both movements, however, the Sorel-Pareto conception of an élite has constituted a convenient bridge between the Napoleonic ambitions of individual leaders and the syndicalist-socialist doctrines of the party followers.

The prospects of survival of the Nazi ideology in Germany, like those of Italian Fascism and Japanese ultra-nationalism, are obviously bound up with the future of the social orders which these creeds boast of having saved from Bolshevism. No competitive ideology can engage in effective proselyting activities so long as all means of coercion and all agencies of propaganda are in the hands of the dominant orthodoxy. For the present, the new German cult, with its paraphernalia of symbols, rituals, hymns, sacred writings, saints, and martyrs, brings genuine solace to the troubled middle-class soul. Further economic disintegration or defeat in military adventures, however, would lead eventually to popular disillusionment and despair, produce new insecurities, maladjustments, and tensions, and possibly create a new revolutionary situation. In such an event, the appeal of communism to the masses might well be enhanced by the fact that the dictatorship is constantly increasing the attention-value of revolutionary Marxism by utilizing it incessantly in its propaganda as the Devil incarnate from whom it claims to have rescued its subjects. Should the rescuers at some future time become the scapegoats of popular resentments engendered by economic or military catastrophe, the Marxist devil might easily be welcomed back as a savior. This circumstance renders it possible, but scarcely probable, that the dictators will be induced to refrain from carrying their cult of war-heroism to its logical conclusion. Meanwhile, Fascist power and Fascist ideology are securely in the saddle in Germany—at least until the next chapter of Armageddon.

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States versus Nation, and the Supreme Court. The Supreme Court of the United States has been as impartial an umpire in national-state disputes as one of the members of two contending teams could be expected to be. This is not to impugn the wisdom or the fairness of the Supreme Court, but it is to say that the Supreme Court has been partial to the national government during the past one hundred and forty-four years of our experience with a federal system in the United States. The states, as members of the federal system, have had to play against the umpire as well as against the national government itself. The combination has long been too much for them.

When I speak of the Supreme Court as an umpire of the federal system, I do not refer to its rôle in enforcing constitutional limitations upon legislative power, such, for example, as those to be found in the Fourteenth Amendment. Nor do I refer to the rôle which that court has played in increasing the scope of national power over individuals, as evidenced by its interpretation of congressional power over interstate and foreign commerce. I refer more particularly to the rôle which the Supreme Court plays in enforcing the legal and constitutional rules governing the mechanics of federalism—the rules governing the position in a federal system which the states occupy, or which the national government occupies. I have in mind the relations between the states and the national government as parts of a federal system, as parts of an organization of government.

There is a tendency for most of us to think of the distribution of governmental powers over individuals in a federal system, when we speak of the balance of power between the units of such a system, or a tendency to think of the increase of national power, whether that increase be at the expense of state power or not.

Recent congressional legislation has raised again the question of the proper distribution of the power to formulate governmental policies, in so far as those policies are formulated in legislation. The expansion of national power cannot be understood fully by a study of the legal materials alone. The non-legal materials of national-state relations, as well as of interstate relations, are receiving more attention now than formerly, and this is, of course, as it should be. Such an increase of attention to the non-legal materials of federalism is a necessary supplement to the adequate attention which for years has been paid to the legal materials on that subject. The one set of materials does not displace the other. Both are equally necessary to an understanding of inter-governmental relations under a federal system.

It is perfectly explicable that governmental powers of a legislative na-

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ture should have been discussed so much recently, and it is equally explicable that the shifts which have been taking place in those powers should be engaging the attention of lawyers and political scientists. Discussions of power, or of shifts of power, cannot, however, be divorced entirely from the rules applicable to structure, and to the legal relations between the parts of the structure, as parts. It is with the Supreme Court as an umpire between the units of the federal system, the states on the one side and the national government on the other, that these observations will deal.

The materials of this study are familiar to most students of American government and constitutional law. Their arrangement in the particular pattern here presented, and the implications of, or generalizations from, them may prove sufficiently suggestive to warrant their discussion in this form. It is the conclusion of the author that the same tendencies are visible in the Supreme Court cases dealing with the relations between the states and the national government as units in the federal system that are discernible in the cases involving the division of governmental powers between those units. The two groups of cases give evidence of the tendency of the Supreme Court to favor centralization—give evidence of the trend towards unitary government.

The most vital and fundamental of the disputes between the states and the national government was not settled by the Supreme Court in the first instance, but was decided by resort to arms. In Texas v. White,[1] however, the court put the stamp of its approval upon the action of the victor, as it must of necessity have done in any event, and decided that the Confederate states had never been out of the Union, despite their membership in the Confederacy. Congress and the President had acted upon the assumption that the states were out of the Union, but the Supreme Court followed the dictates of constitutional logic, rather than those of events, and said that the Union was indestructible, so far as the actions of the disgruntled members were concerned, and that once the states had come into the Union, they could not leave it. The only way in which the dissenting states could have made good their claims would have been to win the war. This the Supreme Court would have recognized. Texas v. White represented the constitutional phase of the victory gained by the central government as a result of the outcome of the Civil War. It was an important victory.

Many years later, the states won a small point, however, when in Coyle v. Smith[2] they were held to be free to manage their own internal political affairs, irrespective of conditions imposed upon them by Congress as the price of admission into the Union. In that case, Oklahoma was held to have the power to change the location of its capital, although it

[1] 7 Wall. 700 (1868). [2] 231 U.S. 559 (1911).

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had promised Congress that it would not do so for a period of ten years. The change was made before the ten-year period expired. When the agreement smacks of a more commercial character, or involves a promise concerning tax exemptions, the states are held to the terms of their bargain.[3] The decision in Coyle v. Smith does not mean, of course, that the states are free to do whatever they wish, once inside of the Union, but holds that one state may do whatever any of the other states may do, politically, despite bargains to the contrary with Congress in connection with admission. This still leaves the states subject to all of the restrictions which rested upon the original thirteen which formed the Union, in addition to such other restrictions as have been imposed on them since. This is the rule of "political equality" of Coyle v. Smith. The victory for the states was, therefore, a small one, and was the more hollow in substance because of the exception of commercial agreements.

The power of Congress over admission to statehood is substantial, and although no decision passes directly upon the question, it has generally been assumed that Congress can deny statehood to any territory seeking admission to the Union, and apparently may compel a territory to become a state even though the people of the territory prefer to remain in the territorial stage.[4]

The Constitution forbids the states to have military or naval forces, and presumably a peaceful method of settling disputes between the states and the national government was to be provided for by granting to the Supreme Court jurisdiction to determine controversies "to which the United States shall be a party."[5]

The national government may bring actions against the states in the Supreme Court, and has done so.[6] The states, however, may not sue the national government in that court without its consent. The reasoning whereby this distinction is justified is not convincing, unless conventional concepts of constitutional law and history be discarded, for it rests upon the assumption that the national government is sovereign and therefore not subject to suit, while the states are assumed not to be sovereign, and therefore are subject to the indignity of being made parties defendant in the Supreme Court.[7] Certainly the national government is not sover-

[3] Stearns v. Minnesota, 179 Minn. 223 (1900).

[4] In Bates and Field, *State Government*, p. 18, an intimation to the contrary is to be found, but later reflection, stimulated by an analysis of the problem furnished me by Professor Arnold J. Lien, has convinced me that the earlier comment was unsound.

[5] Constitution of the United States, Art. III, sec. 2. The jurisdiction over suits between the states is also provided for in this section.

[6] United States v. Texas, 143 U.S. 621 (1892).

[7] Kansas v. United States, 204 U.S. 331 (1906). The federal government may, however, consent to such suit. Minnesota v. Hitchcock, 185 U.S. 373 (1901).

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eign, except in the sense of that term employed in international law. Indeed, the very substitution of pacific for military methods of settling disputes arising within the Union indicates that both parties should be subjected to the jurisdiction of the Supreme Court. Even if it be admitted that the national government is sovereign, the constitutional waiver of the attribute of immunity should have been sufficient to permit the national government to be made a defendant without the suggestion of indignity. It should rather have been referred to in terms of magnanimity, although the constitutional fathers doubtless would have been shocked to see state concessions of 1789 so quickly interpreted as concessions by the national government. If conventional theory were to be satisfied, the Supreme Court could have said that the national government is supreme in its own sphere and the states equally so in their spheres, and that in the sphere of disputes between them the cloak of sovereignty has been laid aside and jurisdiction given to the Supreme Court, in order that the balance may be held even.

To restrict the word "party" to the plaintiff is to limit it unduly, and inasmuch as the decisions on this point are not wholly clear, the question should be presented to the Supreme Court again, and argued carefully, so that the matter may be put beyond the realm of doubt, because of the importance of the issue involved. The issue is important from the standpoint of theory because if the states are really to remain under this handicap, the traditional statements of the relative positions of the two divisions of government must be changed. The states are not equal, so far as their own powers are concerned, to the national government, but are inferior to it. One suspects that the time has probably come when the Supreme Court is willing to say that they are not equal, are not sovereign, and are not to be accorded the status in litigation that the national government has had.

From the viewpoint of the operation of government, the decisions discriminating against the states in this connection are of the utmost significance, because they leave the states dependent upon private individuals to assert the rights and powers of states as members of the federal system whenever congressional action, or federal action, trespasses upon the constitutional domain of the states and exceeds constitutional grants of power to the central government. The states as such may not challenge excesses of national power, but must rely upon private individuals whose rights or privileges may be affected adversely by the exercise of the power in question. This leaves to the caprice of the individual the raising and presentation of some of the most important constitutional questions that arise under our Constitution. Worse still, the questions when raised are discussed in an atmosphere of private litigation, in terms of an individual against the national government, and not in terms of national-state rela-

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tions. This must have contributed much to the strictly legal tone of some of the decisions of the Supreme Court upon fundamental constitutional and political issues. It must have contributed much also to the losing game which the states have found themselves playing, and there can be no question that the political instrument of judicial review has been rendered ineffective to a large extent so far as the federal system is concerned. The states gain a little, now and then, from this ineffectiveness, but the national government gains as much, or more.[8]

Chisholm v. Georgia[9] is interesting at this point because it reflects the early attitude of the Supreme Court toward the states, so far as their position before that court was concerned in matters of jurisdiction; and while the decision was overcome by the Eleventh Amendment,[10] it is surprising that the amendment accomplished as little as it did. Chisholm v. Georgia held that a citizen of one state could sue another state in the Supreme Court. The Eleventh Amendment forbids the federal courts to take jurisdiction over such cases. At the outset the states won a rather substantial victory by persuading the Supreme Court that the "spirit" of the amendment was such that it should be interpreted to forbid the federal courts to take suits against a state by one of the defendant's own citizens.[11] But this application of the spirit of the amendment, directly at variance with the wording of it, was soon turned against the states, it being held that the spirit of the amendment was to give the states immunity from suit; and of course an immunity can be waived, so that if a state consents to be sued in the federal courts, those courts may take jurisdiction over the suit. The amendment in terms limits the jurisdiction of the federal courts so that they cannot take such cases, but the amendment being interpreted in terms of immunity permits such cases to be tried in the federal courts. And, once the consent to suit has been given, it cannot be withdrawn so far as that case is concerned.[12] A state may

[8] This phase of judicial review is discussed in greater detail by the writer in a forthcoming book on the effect of an unconstitutional statute. Attorneys-general may appear in private cases, but often do not ask leave to intervene.

[9] 2 Dallas, 419 (1793).

[10] Due to the emphasis later given to the phraseology of this amendment, it is reproduced here for reference. "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state."

[11] Hans v. Louisiana, 134 U.S. 1 (1890).

[12] Gunter v. Altantic Coast Line Railroad Co., 200 U.S. 273 (1906): "Although a state may not be sued without its consent, such immunity is a privilege which may be waived, and hence, where a state voluntarily becomes a party to a cause and submits its rights for judicial determination, it will be bound thereby and cannot escape the result of its own voluntary act by invoking the prohibition of the Eleventh Amendment."

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consent to be sued in its own courts, of course, but there such consent may be withdrawn, even though the suit itself has begun;[13] but not so in the federal courts. State courts may not take suits against the United States without the latter's consent,[14] but although no case seems as yet to have raised the question, it is likely that federal consent to suit in the state courts can be withdrawn at any time.

Some interesting cases have been decided in favor of the federal courts when disputes between the state courts and the federal courts have arisen. For example, the national courts may release a party who is in the custody of a state officer, if proper showings justifying the issuance of the writ of habeas corpus are made.[15] The state courts may not interfere by habeas corpus with the work of federal officers or courts.[16] The federal courts are careful to say that they will interfere only upon great provocation, but the fact remains that they do interfere, in a manner not permitted to the states to interfere with federal officers. Federal officers may surrender a person in their custody to the state courts if they wish to do so, but such a surrender is a matter of comity, and not one of legal obligation.[17]

The federal courts may enjoin state courts from proceeding with a case, and have done so occasionally,[18] but the state courts dare not enjoin the federal courts in their work.[18a] Federal courts constantly interfere with state administrative officers by injunction,[19] but how often do the state courts step in to call a halt on any federal administrative action? Congressional attempts to curtail federal injunctive interference with state administration have been so restricted in application by the courts that they have been relatively ineffective.[20]

Diversity of citizenship cases may be removed from state to federal courts by virtue of congressional statute, and removals of this kind are legion because of the broad construction given this statute.[21] State attempts to curb removals by corporations in diversity cases have met with

[13] Beers v. Arkansas, 20 Howard, 527 (1858); Railway Company v. Tennessee, 101 U.S. 357 (1879).

[14] Stanley v. Schwalby, 162 U.S. 255 (1896); may not try title of federal government to land.

[15] Moore v. Dempsey, 261 U.S. 86 (1923). The constitutionality of the federal statute permitting this was sustained in Frank v. Mangum, 237 U.S. 209 (1914).

[16] Tarble's Case, 13 Wallace, 397 (1872); state courts may not issue writ to federal military officer to test legality of enlistment.

[17] Pomi v. Fessenden, 258 U.S. 254 (1922).

[18] United States Code (1926), Title 28, sec. 379, forbids such injunctions to issue except in bankruptcy cases.

[18a] Rigg, v. Johnson County, 6 Wallace, 166 (1867).

[19] The instances of interference are legion in the field of public utility regulation and in taxation.

[20] See the fate of the "Three Judge Rule" of United States Code (1926), Title 28, secs. 380–89, as described in 38 *Yale L. Jour.* 955.

[21] An important case on removal is Gaines v. Fuentes, 92 U.S. 10 (1875). The technical law on removal, mostly district court law in fact, is in hopeless confusion.

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Supreme Court rebuffs and have proved futile.[22] Federal statutes also provide for the removal of criminal prosecutions against federal officers in the state courts to the federal courts, and such removals have been held to be constitutional.[23]

In the matter of the law to be used in the federal courts, the states have won a slender victory indeed. Federal statutes provide that the procedure in the federal courts shall be in conformity with that in the state courts, so far as that is practicable. How impracticable the federal courts have found it to conform their procedure to that of the states, those familiar with both groups of courts know only too well.[24] Similarly, another statute provides that the substantive law of the states is to be applied in diversity cases, but Swift v. Tyson[25] began a list of exceptions which has grown in length and breadth in the century elapsing since that decision was handed down.

The only consolation left to the states in the relations between the two judicial systems is that arising from the permission granted them by congressional statute to try cases involving federal questions, and that they not only may decide questions arising under the Constitution of the United States in some instances, but may decide them as matters of first impression if no federal precedent exists, and may even ignore such precedent when it exists, and evade compliance with the known rule of law for several years at a time.[26] But of course Supreme Court review substantially restricts the states in the long view, because of congressional statutes permitting that court to override state court decisions upon federal constitutional questions.[27] But here also, such questions are com-

[22] Terral v. Burke Constr. Co., 257 U.S. 529 (1922).

[23] Tennessee v. Davis, 100 U.S. 257 (1879). See a recent case stating rules of pleading on such a removal, Colorado v. Symes, 286 U.S. 510 (1932).

[24] An ineffectiveness of the Conformity Act. See 36 *Yale L. Jour.* 853.

[25] 16 Peters, 1 (1842), holding that on matters of general commercial jurisprudence the federal courts determine for themselves the rule to follow. See the criticism of Swift v. Tyson in Willoughby, *Constitutional Law* (2d), secs. 836–37; 38 *Yale L. Jour.*, 88. A review of the general principles governing federal court application of state law is to be found in Kuhn v. Fairmont Coal Co., 215 U.S. 349 (1910). More recent discussions of the question are to be found in Concordia Insurance Co. v. School Dist., 282 U.S. 545 (1931); Herron v. So. Pac. Co., 283 U.S. 383 (1931).

[26] It often takes several years before state practice is really changed to conform to Supreme Court decisions on state powers, partly because a decision that a statute of one state is invalid does not automatically or immediately strike down similar statutes in other states.

[27] It seems commonly to be overlooked that statute now provides for the appellate jurisdiction of the Supreme Court, and that a repeal of the statute would leave to the state courts final jurisdiction over questions of federal constitutional law arising in the state courts and not removed under the removal statutes. Appellate jurisdiction on this head is subject to "regulation" by Congress. Important early cases: Cohens v. Virginia, 6 Wheaton, 264 (1821); Martin v. Hunter's Lessee, 1 Wheaton, 304 (1816).

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monly brought to the Supreme Court at the initiative of the aggrieved individual rather than at the instance of the governments involved.

Relations between the federal government and the state courts were involved in the interesting case of the second Employers' Liability Act, and the Supreme Court decided in the Second Employers' Liability Cases[28] that the state courts must accept cases arising under this act, even though the state courts did not wish to do so, and even though to do so might involve considerable expense and inconvenience to the state and its courts.

The states are under some constitutional obligations which must be performed if the Union is to continue, such, for example, as the duty to carry on elections for representatives and senators. No sanctions are provided for in case of failure, but military sanctions are perhaps available in instances of this kind, unless the failure to hold elections be so widespread as to constitute a dissolution of the Union itself. The duty involved in such a situation as the Second Employers' Liability Cases is more specific, however, and is a duty resting upon specific officers and branches of government.

The Supreme Court restricted its decision in the Second Employers' Liability Cases to the point involved, and simply held that so long as the state courts were open to suits of this kind arising in the states, they must be kept open to cases arising under the federal statute also. The case goes pretty far, but of course deals only with the duties of the judicial branch of state government, and then perhaps should be viewed in terms of discrimination against the federal cases, although the opinion is broader than this at some points.

Can Congress compel a state administrative officer to perform functions prescribed by federal statute? The question is naturally raised by this decision. It has been generally thought that the national government has no such power, and that to grant it this power would be to put the states at the mercy of the national government completely. State governments have often volunteered their aid to the central government, as for example, during the World War, when state governors acted as agents of the federal government in the execution of the draft acts.[29] State officers

[28] 226 U.S. 1 (1912).

[29] The Civil War acts seem to have been couched in more mandatory terms. See *In re* Griner, 16 Wis. 447 (1863); Druecker v. Solomon, 21 Wis. 628 (1867). State courts have divided over the question whether the state could aid the national government by condemning land for it. Trombley v. Humphrey, 23 Mich. 471 (1871), denying power; Gilmer v. Lime Point, 18 Cal. 229 (1861). See Gilbert v. Minnesota, 254 U.S. 325 (1920), that state may aid in carrying out national war policies. Also Houston v. Moore, 5 Wheaton, 1 (1920), state statute punishing refusal to obey President's order valid. Robertson v. Baldwin, 165 U.S. 275 (1897), held that federal statute valid which gave state justice of peace power to issue warrant of arrest

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have at times received commissions from the national government to act as agents of the latter government.[30] But apparently the issue has never been squarely presented to the Supreme Court as to whether state officers can be compelled against their own, and against the state government's will, to carry on federal work.

An oft-repeated view of the duties of state officers toward the Constitution of the United States is that all state officers are under duty to enforce the provisions of that document because of the oath which they take to do so, and that this means that to some extent state officers must perform federal functions. The flaw in this reasoning consists in viewing the oath as a grant of power, when it is merely a qualification for office. The reason why the oath is required is to make certain of the loyalty of the officers of government to the Constitution. To take an oath to support the Constitution against enemies threatening with destruction the system which it establishes is quite a different thing from taking the oath to obtain affirmative grants of power to carry on federal work. The word "support" should be interpreted to mean "defend" and "adhere to," rather than to do the work of the national government. Any other view would make it possible to place the burden of administering federal laws on the states.

State regulation of federal officers in the interests of safety and health have met with severe rebuffs. Headlight specifications for automobiles have been held inapplicable to mail trucks when the postmaster-general prescribed that another type would suffice.[31] Anti-oleomargarine laws do not apply to federal institutions in a state, such as a soldiers' home, if under federal authority rules governing foodstuffs in such a home are contrary to the state law.[32] Speed laws have been held not to apply to a member of the military department in the execution of orders from his military superiors[33] requiring speedy delivery. City and state police radio services are subject to the restrictions imposed by the federal Radio Com-

for deserting seaman. See, for general discussion, "State Administration of Federal Laws," 48 *L.R.A.*, 33; Chamberlain, "Enforcement of Volstead Act Through State Agencies," 10 *A.B.A. Jour.*, 391; 1 Willoughby, *Constitutional Law* (2d ed), 209. See discussion in Willoughby of United States Code (1926), sec. 78, placing duty on clerk of state court to prepare copies of papers in removal cases.

[30] Game wardens have occasionally been commissioned by both state and national governments. Some interesting material on the place of the states is to be found in Holcombe, "The States as Agents of the Nation," 1 *Southwestern Political Science Quarterly*, 307.

[31] *Ex parte* Willman, 277 Fed. 819 (D.C. Ohio, 1921).

[32] Ohio v. Thomas, 173 U.S. 276 (1898); state game laws held not to apply to federal officers on national forest reservation. Hunt v. United States, 278 U.S. 96 (1928).

[33] State v. Burton, 41 R.I. 1 (1918), the court saying that in the absence of military urgency the ordinary traffic rules would apply to federal officers.

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mission, and the ease with which such control was imposed indicates how well-established the idea of federal supremacy has become. Ordinary police measures of the state or municipality are observed by federal officers, but when a test comes, federal authority overrides the state's exercise of its police power—a power that presumably is exercised for the protection of the population of the state. Drivers' license laws have been held inapplicable to mail-truck operators.[33a]

Perhaps the abject constitutional position of the states is nowhere more clearly illustrated than in the field of eminent domain. In Utah Power and Light Company v. United States,[34] the Supreme Court rebuked the state when it attempted to authorize the exercise of the power of eminent domain on federal lands located in the state. Consider, on the other hand, the city, a political subdivision of the state, which had a number of its streets condemned by the national authorities for military purposes.[35] Then there is the instance in which a public utility company, acting under federal authority, was permitted to construct a dam which would flood an area including several municipalities and cut the county into several distinct parts, each remote and inaccessible from the others.[36] A great deal of taxable property, also, was removed from the tax rolls by this action. Dicta in federal cases fully justify the assumption that these doctrines enunciated in the above-mentioned decisions will be extended still farther, and that the national government may take for its own use property belonging to or used by the state governments.[37]

Decisions in the field of federal-state relations in taxation are doubly interesting now, with many municipalities considering public ownership of public utilities, and states deliberating over the question whether liquor shall be dispensed privately or publicly. The supremacy of the national government in case of conflict between it and the states in the exercise of the power to tax, admittedly possessed by both of them, is nicely illustrated by the decision holding that if property subject to taxation by both of them is insufficient to pay both claims, it shall be sold for federal taxes

[33a] Johnson v. Maryland, 254 U.S. 51 (1920).

[34] 243 U.S. 389 (1917).

[35] Nahant v. United States, 136 Fed. 273 (C.C.A. 1st, 1905); Same, 153 Fed. 520 (C.C.A. 1st, 1907); Bradford v. United States, 23 F. (2d) 453 (C.C.A.1st, 1927).

[36] Missouri *ex rel.* Camden County v. Union Elec. Light and Power Co., 42 F. (2d) 692 (D.C. Mo., 1930).

[37] 1 Willoughby, *Constitutional Law* (2 ed), 179–180. It used to be thought that land in a state could not be taken without the consent of the state, but it is now established that the power of the federal government to take land by condemnation is not restricted to the consent provision governing purchase. Art. I, sec. 8, cl. 3. See Kohl v. United States, 91 U.S. 367 (1876); Van Brocklin v. Tennessee, 117 U.S. 151 (1886).

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first, and if anything remains when they are paid, the remainder will go to the state.[38]

One of the decisions causing a great deal of speculation at the present time is South Carolina v. United States,[39] wherein a federal tax was upheld although applied to income received by the state from the sale of liquor under a liquor monopoly. Utilities owned by municipalities have recently paid similar taxes to the federal government, along with privately owned utilities. The rule customarily applied to exempt the instrumentalities of one government from taxation by the other government is not applied in these cases because the work carried on is said to be not "governmental" but private, and therefore not within the exemption. Does anyone suppose that the Post Office could be subjected to taxation by the states merely because in its operation the national government showed a net profit? Or would the states be permitted to tax any government-owned federal corporation unless federal statutes expressly permitted it?[40] Would a liquor dispensary owned by the national government be subjected to a South Carolina tax? One can almost hear the Supreme Court say gravely that all business conducted by the national government is "governmental" and therefore immune from state taxation. Ordinary private enterprise carried on by state governments or city governments is taxable, because the federal revenue cannot be defeated by state socialism, while when operated by the federal government it is likely to be for the "general welfare" and to tax it would be to endanger the very foundations of the federal system.

A state may not tax the franchise of a corporation authorized by Congress.[41] "To tax it is not only derogatory to the dignity but subversive of the powers of the government, and repugnant to its paramount sovereignty."[42] But in Flint v. Stone Tracy Company,[43] a federal tax was upheld though it was based on a value including that of a franchise of the

[38] See Spokane County v. United States, 279 U.S. 80 (1929).

[39] 199 U.S. 437 (1905). The whole subject of federal-state relations and the implications of the South Carolina case are discussed in Cohen and Dayton, "Federal Taxation of State Activities," 34 *Yale L. Jour.*, 704. See North Dakota v. Olson, 33 F. (2d) 848 (C.C.A. 8th, 1929), holding State Bank of North Dakota liable for tax on capital stock.

[40] Clallam County v. United States, 263 U.S. 341 (1923); United States Spruce Corporation not taxable by state. The case distinguishes the private profit type of corporation. Shares of stock in a national bank are taxable by virtue of an act of Congress permitting state taxation.

[41] California v. Central Pac. R.R., 127 U.S. 1 (1888). But if a private profit organization, the property of the corporation is subject to state taxation. Railroad Company v. Peniston, 18 Wall. 5 (1873).

[42] California v. Central Pac. R.R., note 41, *supra*.

[43] 220 U.S. 107 (1911).

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corporation which had been granted by the state. The national tax on state bank notes was sustained on the theory that the power exercised was not a tax power as such, but a tax power as an instrumentality for the execution of the power over currency.[44] The result, of course, was to check the note issues of state banks. The fate which befell earlier attempts by the states to tax national bank-note issues is remembered by all who have read McCulloch v. Maryland.[45] In one case, the tax was invalid because destructive; in the other, valid because destructive. National bank stock is taxable by the states because a congressional statute permits such taxation.[46]

Congressional power over imports and foreign commerce extends to the power to tax imports, and this power has been held to be so broad as to extend to goods imported by a state agency.[47] It is difficult to imagine the Supreme Court sustaining a state tax on the sale of an article to the Post-Office Department.[48]

The Supreme Court has perhaps umpired fairly, but it certainly has not umpired impartially. The traditional explanation of the division of powers in the United States has always been that the national government is sovereign in its sphere, the state government sovereign in its sphere. The powers are said to be divided between the two governments, and together they possess the power of government in this country. But *is* the state sovereign, or supreme, in its own sphere? The rule is that the national powers are supreme if they come into conflict with state powers. This is a rule of subordination, not a rule of equality.

Gradually, but steadily, the national government has come to occupy a favored position in the federal system, and the balance contemplated by the constitutional fathers has been changed to dominance of the national government. The Supreme Court has both led and been led in this development. It has heeded not only military victories such as those of the Civil War, but also the more insistent social and economic demands of the people that the national government assume an increasingly important rôle.

This increase in federal power, and this place of dominance of the national government in the federal system, has been aided by the Supreme Court. For the time being, such changes do not necessarily mean that the

[44] Veazie Bank v. Fenno, 8 Wallace, 533 (1869).

[45] 4 Wheaton, 316 (1819). Federal Land Bank mortgages are exempt. Federal Land Bank v. Crossland, 261 U.S. 374 (1923).

[46] See Rev. Stats. Sec. 5219. The constitutionality of such permission has never been settled, having been assumed rather than decided.

[47] Board of Trustees of Univ. of Ill. v. United States, 53 Sup. Ct: Rep. 509 (1933).

[48] See the comments in Osborn v. Bank, 9 Wheaton, 738 (1824), on state restrictions on contractor supplying goods to federal government.

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states lose power, although they have already lost position, so far as the federal system is concerned.

The constitutional character of the Union has changed greatly since 1789. One wonders whether it is not time now to restate the rule on express and implied and delegated powers. Is it not much easier to predict decisions, in all but the labor field, by assuming the present rule governing federal exercise of governmental power to be as follows: "The national government has all those powers of government not specifically denied it. In case of doubt, the national government shall be deemed to have the power. In case of conflict between national and state power, the national government shall be deemed superior. In case of war or emergency, these rules apply particularly, but in case of doubt a state of emergency shall be deemed to exist?"

If the next few years should bring about the necessity for such a formulation, they would only be bringing about in the field of governmental powers a shift which has been nearly completed in the rules applied to the relations between the national government and the states as constituent parts of the federal system.

One cannot but ponder how perfectly the Supreme Court has paved the way for any changes of government which may be contemplated necessitating organization on a national scale; for, be it fascism or communism, the constitutional stage is set—only a step more here and there, and the legal doors are wide open. The Supreme Court has played the rôle that a political umpire should play, that of half a judge and half a governor. The result is comforting, even to those who would like to see the present system given a further trial.

OLIVER P. FIELD.

University of Minnesota.

State Constitutional Development Through Amendment in 1933. Since this annual survey was inaugurated in 1927, it has been observed that activity in the amendment of constitutions is greater in even years than in odd years. Only eight states (California, Michigan, New Jersey, New York, Oregon, South Carolina, Virginia, and Wisconsin) changed their fundamental law in 1927. In 1928, the number rose to eighteen (Alabama, Arizona, Arkansas, Colorado, Florida, Idaho, Kansas, Louisiana, Michigan, Missouri, Montana, Nebraska, North Carolina, North Dakota, Pennsylvania, Rhode Island, Texas, and Virginia). The number was reduced to five in 1929 (Delaware, Maine, New York, Ohio, and Wisconsin), only to swell to a new height of twenty-one (Arizona, California, Florida, Idaho, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Washington, and Wiscon-

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sin) in 1930. The six states which featured in this respect in 1931 were Alabama, Kentucky, Maine, Michigan, New York, and Ohio. The record year was 1932, in which twenty-three states (Arizona, California, Colorado, Connecticut, Georgia, Idaho, Kansas, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, New Mexico, North Carolina, North Dakota, Oregon, South Carolina, Texas, Utah, West Virginia, and Wisconsin) were listed. Constitutional changes in ten states in 1933 are reviewed by states rather than by subject-matter, and the effect of each amendment upon earlier constitutional provisions is indicated. A note is added concerning the amendment process in each state surveyed.

Alabama. Amendment XXIV suspends until October 1, 1935, section 281 of Article XVII which provides that "the salary, fees, or compensation of any officer holding any civil office of profit under this state, or any county or municipality thereof, shall not be increased or diminished during the term for which he shall have been elected or appointed," so that reductions in pay may be made. Furthermore, an upper limit of $6,000 per annum for any state, county, or municipal officer is fixed, effective until October 1, 1935.[1] A state income tax with exemptions of $1,500 for unmarried persons, $3,000 for heads of families, and $300 for each dependent under eighteen years of age, was adopted as Amendment XXII. No exemption is allowed state, county, and municipal officers and employees. Revenue derived from this tax is being held in trust for the payment of the floating debt of Alabama until all debts to October 1, 1932, are paid, and thereafter is to be used exclusively for the reduction of state ad valorem taxes.[2] Section 213 of Article XI is amended to provide for payment of outside and unpaid warrants on the state treasury and to prevent state deficits by restraining the state comptroller from drawing warrants for payment of money unless there are sufficient funds in the treasury to cover them.[3] In Article XVIII, the length of notice of proposed amendments to be voted upon by the people is reduced from eight to four weeks preceding the day appointed for the election.[4] Proposed amendments are read in the house in which they originate on three different days, subject to favorable vote of three-fifths of all the members elected to that house, whereupon a similar procedure is followed in the other house of the legislature. A majority of the qualified electors of the state must support the proposal at a special or general election, in this case on July 18, 1933.

Arizona. Section 22 of Article XXII provides for the use of lethal gas in the administration of the death penalty for criminals.[5] This amendment

[1] Yes, 130,058; No, 44,236.
[2] Yes, 107,202; No, 69,889.
[3] Yes, 103,200; No, 67,000.
[4] Yes, 113,943; No, 47,091.
[5] Yes, 11,999; No, 11,585.

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was proposed by a majority of the members of the two houses and adopted by a majority of the voters participating in the election of October 3, 1933.

Delaware. To Section 4 of Article I is added a provision for New Castle county grand juries of fifteen members, one resident from each representative district in the county. An affirmative vote of nine of each of the fifteen is necessary to find a true bill of indictment. Grand juries of Kent and Sussex counties comprise ten members, one resident from each of the representative districts, an affirmative vote of seven being necessary to return a true bill of indictment. A special vote is necessary, amendments being adopted by a concurrence of two-thirds of the members of each house, with publication of the texts of the amendments in at least three newspapers in each county.

New York. An additional alternative method for the ascertainment of compensation to be made for private property in the city of New York when taken by the city for public use provides in an amendment to Section 7 of Article I that it may be done by a term of the supreme court consisting of one or more justices thereof without a jury.[6] A state highway in the forest preserve, from Indian Lake to Speculator, was authorized through the addition of section 7-a to Article VII.[7] Barge canal lands in New York City, no longer needed, may be disposed of by the legislature in exception to section 8 of Article VII, the proceeds to be applied to the improvement or maintenance of the barge canal system.[8] These amendments were approved by a majority of each of the two houses in successive legislatures and subsequently ratified by a majority of the electors voting thereon in the November election.

Ohio. Article XV, section 9, prohibiting the sale and manufacture for sale of intoxicating liquors as a beverage was repealed.[9] Section 2 of Article XII was amended so that no property may be taxed in excess of one per cent of its true value in money for state or local purposes. The previous limit was one and one-half per cent.[10] Extensive changes are made in the provision for the organization and government of counties by repealing section 16 of Article IV and sections 1 to 7 of Article X, substituting therefor sections 1 to 4 in Article X. This "county home rule amendment" authorizes "any county to frame, adopt, or amend a charter and establish its form of government; permits the legislature to enact plans of county government subject to adoption by the electors in any county; provides for the transfer of the powers of townships and municipalities to the county, or for the withdrawal of such powers, by a vote of the people concerned; permits the adoption of a charter giving the county

[6] Yes, 1,113,371; No, 443,326.
[7] Yes, 1,099,399; No, 492,424.
[8] Yes, 1,109,388; No, 425,378.
[9] Yes, 1,250,923; No, 578,035.
[10] Yes, 979,061; No, 661,151.

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concurrent or exclusive municipal powers, or making the county a consolidated municipality; provides for the choosing of a charter commission, by popular vote, and for the framing of a charter by such commission."[11] A majority of the electors voting on this proposal on November 7, 1933, concurred with three-fifths of each house of the legislature.

Oklahoma. The total taxes on an ad valorem basis, for all state, county, township, city, town, and school district purposes, are reduced from thirty-one and one-half mills on the dollar to fifteen mills on the dollar in any one year (Article X, section 9). No ad valorem tax shall be levied for state purposes, and the levies for other government units are redistributed.[12] Having been agreed to by a majority of all of the members elected to each of the two houses, the amendment subsequently received approval of a majority of all of the electors at the special election of August 15, 1933.

Oregon. In order to conclude the work of the World War veterans' state aid commission, which was established in 1921 to provide rehabilitation and early adjustment of the unequal losses suffered by the veterans during the World War, an amendment to Article XI-c was adopted immediately discontinuing the payment of cash bonuses and preventing the issuance of bonus loans after June 30, 1938. Refunding bonds may be issued within previous constitutional limitations.[13] Sections 36 and 36-a of Article I, prohibiting the sale and importation of intoxicating liquors, were repealed by initiative petition filed March 20, 1933 (alternative method to approval by a majority of all the members elected to each of the two houses of the legislature), and by final vote of the people in a special election of July 21, 1933.[14]

Pennsylvania. Of the twelve proposed changes, ten were adopted. An exception is made to the general restriction (Article III, section 18) that "no moneys shall be paid out of the treasury, except upon appropriations made by law, and on warrant by the proper officer in pursuance thereof," permitting the legislature to appropriate money for pensions or gratuities to blind persons twenty-one years of age and upwards.[15] Article III, section 22, is revised so that the general assembly now may prescribe the nature and kind of investments for trust to be made by executors, administrators, trustees, guardians, and other fiduciaries.[16] The tax qualification for voting in Article VIII, section 1, clause 4 (payment within two years of a state or county tax which shall have been assessed at least two months and paid at least one month before the election) is repealed.[17] Four new sections are added to Article IX. One, relating to a soldier's

[11] Yes, 846,594; No, 74,2925.
[12] Yes, 113,267; No, 75,476.
[13] Yes, 183,623; No, 20,739.
[14] Yes, 143,044; No, 72,745.
[15] Yes, 1,092,001; No, 355,405.
[16] Yes, 607–417; No, 460,055.
[17] Yes, 670,325; No, 466,136.

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bonus, permits the state to create debt and issue bonds to the amount of fifty million dollars to pay compensation to certain veterans of the Spanish American War, the China relief expedition, the Philippine War, and the World War.[18] Another section authorizes the governor, auditor-general, and state treasurer to borrow not more than twenty-five million dollars to defray the expenses of the state government during the current biennium.[19] The city of Philadelphia is permitted to levy special assessments against such abutting or non-abutting properties as are or will be especially benefited by the construction or operation of transit subways, rapid transit railways, or other local transit facilities, and granting the city the power of eminent domain for such construction and operation.[20] Finally, by a close vote, the legislature is authorized to borrow ten million dollars for acquiring toll bridges.[21] For the immediate purpose of facilitating the creation of improved approaches in Philadelphia to the Philadelphia-Camden bridge, a new section is added to Article XV, permitting the general assembly to authorize cities to take more land and property than is needed for actual construction in the laying out, widening, extending, or re-locating of highways or streets connecting with bridges, crossing streams, or for tunnels under streams which form boundaries between Pennsylvania and any other state, and subsequently to sell or lease such part as is not actually required.[22] Consolidation of the city of Pittsburgh and Allegheny county may be authorized by the legislature under an amendment to Article XV, section 4.[23] Article XVII, concerning railways and canals, is amended (section 3) by eliminating the so-called long and short haul clause applicable to railroad rates.[24] The Pennsylvania constitution is amended by proposal of a majority of the members elected to each house—approved by a majority of the electors voting thereon in an election.

Texas. Four constitutional amendments were voted upon at the special election of August 26, 1933, details of which have not been made available at the time of this writing. They are, however, stated in the *General Laws* of the forty-third legislature. Prohibition of the manufacture, sale, barter, and exchange of spirituous, vinous, or malt liquors or medicated bitters capable of producing intoxication (Article XVI, section 20-a) is repealed.[25] The legislature is authorized to float bonds to relieve unemployment.[26] The home rule charter becomes available to certain counties.[27] A vote of two-thirds of all members elected to each house, together with a majority of the votes cast at an election, proposes amendments for the considera-

[18] Yes, 964,708; No, 580,794.
[19] Yes, 1,240,528; No, 349,862.
[20] Yes, 489,865; No, 444,934.
[21] Yes, 542,698; No, 541,106.
[22] Yes, 497,289; No, 493,048.
[23] Yes, 568,798; No, 467,492.
[24] Yes, 710,191; No, 331,224.
[25] Yes, 317,340; No, 186,315.
[26] Yes, 334,728; No, 162,073.
[27] Yes, 317,521; No, 131,827.

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tion of the people in an election in which the majority of the votes cast must be favorable. A special election was held on August 26, 1933.

Utah. Section 8 is added to Article XVI, authorizing the legislature to establish a minimum wage for women and minors and to provide for the comfort, health, safety, and general welfare of any and all members.[28] Section 3 of Article XXII, prohibiting the manufacture, sale, storing, advertisement, use, and possession of or traffic in intoxicating liquors, is repealed.[29] These amendments, as approved by two-thirds of each house of the legislature, received the endorsement of the majority of the electors of the state on November 7, 1933.

W. LEON GODSHALL.

Union College.

Organization of the Executive Branch of the National Government of the United States. Changes between November 1, 1933, and March 15, 1934. In the December, 1933, issue of the REVIEW (pp. 942–955) appeared a tabular view of the changes in major units of the national government between March 4 and November 1, 1933. The list below brings the enumeration to March 15, 1934. As in the previous list, mention is made only of units specifically authorized by law or established by the President by executive order under general authority vested in him. There are also boards, corporations, and committees subordinate or advisory to the units listed.

Department of Agriculture

Agricultural Adjustment Administration

Executive Order No. 6551 of January 8, 1934, transferred to National Recovery Administration specified functions and powers.

Extension Service

Reduction in payments for agricultural extension work 25 per cent by Executive Order No. 6166 of June 10, 1933. Executive Order No. 6585 of February 6, 1934, postponed effective date to April 10, 1934; Executive Order No. 6586 of same date revokes portion of Executive Order No. 6166 providing for this reduction.

Office of Experiment Stations

Reduction of payment for agricultural stations 25 per cent by Executive Order No. 6166 of June, 1933. Executive Order No. 6585 of February 6, 1934, postponed effective date to April 10, 1934; Executive Order No. 6586 of same date revokes portion of Executive Order No. 6166 providing for this reduction.

Department of Commerce

Bureau of Mines

[28] Yes, 133,771; No, 21,941.

[29] Yes, 99,943; No, 62,437.

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Transferred to Department of the Interior (see below under Department of the Interior).

Federal Employment Stabilization Office

Created by Executive Order No. 6623 of March 1, 1934, effective May 1, 1934, to take place of Federal Employment Stabilization Board, an independent establishment. By Executive Order No. 6166 of June 10, 1933, effective August 10, 1933, the Board was abolished and its records transferred to the Federal Emergency Administration of Public Works; by Executive Order No. 6221 of July 26, 1933, the effective date was deferred until 60 days after convening of the second session of the 73rd Congress; by Executive Order No. 6624 of March 1, 1934, the effective date was deferred until May 1, 1934, when Order No. 6623 becomes effective.

Department of the Interior

Federal Board for Vocational Education

Reduction of payments for cöoperative vocational education and rehabilitation 25 per cent by Executive Order No. 6166 of June 10, 1933. Executive Order No. 6585 of February 6, 1934, postponed effective date to April 10, 1934; Executive Order No. 6586 of same date revokes portion of Executive Order No. 6166 providing for this reduction.

Office of Education

Reduction of payments for endowment and maintenance of colleges for the benefit of agriculture and mechanic arts 25 per cent by Executive Order No. 6166 of June 10, 1933. Executive Order No. 6585 of February 6, 1934, postponed effective date to April 10, 1934; Executive Order No. 6586 of same date revoked portion of Executive Order No. 6166 providing for this reduction.

Bureau of Mines

Transferred from Department of Commerce by Executive Order No. 6611 of February 22, 1934, effective April 24, 1934. When the Bureau of Mines was created in 1910, it was placed in the Department of the Interior. President Coolidge, by Executive Order No. 4239 of June 4, 1925, effective July 1, 1925, transferred it to the Department of Commerce under authority of section 12 of the act of February 14, 1903 (32 Stat. L., 830) creating the Department of Commerce and Labor.

Department of Justice

Division of Investigation

Portion of former Bureau of Prohibition transferred to Bureau of Internal Revenue (see below under Treasury Department).

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Treasury Department

Division of Disbursement

Executive Order No. 6540 of December 28, 1933, deferred to June 30, 1934, effective date of Executive Order No. 6166 of June 10, 1933, providing for centralization of disbursements, with proviso that consolidation might be made in whole or in part prior to June 30, 1934, by order of the Secretary of the Treasury, approved by the President. This consolidation has been made effective in part.

Bureau of Internal Revenue

Executive Order No. 6639 of March 10, 1934, effective May 10, 1934, abolishes the Bureau of Industrial Alcohol and Office of Commissioner of Industrial Alcohol and transfers all duties to Commissioner of Internal Revenue; the same order also transfers to the Commissioner of Internal Revenue the portion of the former Bureau of Prohibition (with certain exceptions) which Executive Order No. 6166 of June 10, 1933, effective August 10, 1933, transferred to the Division of Investigation of the Department of Justice. Executive Order No. 6166 of June 10, 1933, effective August 10, 1933, combined the Bureau of Internal Revenue and the Bureau of Industrial Alcohol to form the Division of Internal Revenue; the effective date of that order was postponed to December 31, 1933, by Executive Order No. 6224 of July 27, 1933, and was again postponed to June 30, 1934, by Executive Order No. 6540 of December 28, 1933. Executive Order No. 6639 of March 10, 1934, revokes the orders cited above, and therefore the Bureau of Internal Revenue retains its former name.

War Department

Transportation of air mail made duty of War Department "during the present emergency." Executive Order No. 6591 of February 9, 1934.

Office of Quartermaster General

National cemeteries and memorials in foreign countries transferred to American Battle Monuments Commission (see below under Independent establishments).

Independent Establishments

Electric Home and Farm Authority, Inc.

Created by Executive Order No. 6514 of December 19, 1933, to have "the powers and functions of a mortgage-loan company." The directors of this corporation are the directors of the Tennessee Valley Authority, and it is understood that it will be operated in connection with that organization.

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Export-Import Bank of Washington, D. C.

Created by Executive Order No. 6581 of February 2, 1934, "to facilitate exports and imports and the exchange of commodities between the United States and other nations or the agencies or nationals thereof." It is understood that this corporation will confine its activities to trade with Russia.

Second Export-Import Bank of Washington, D. C.

Created by Executive Order No. 6638 of March 9, 1934, for the same purposes as the Export-Import Bank listed above. It is understood that the second bank will confine its activities to trade with Cuba.

Federal Employment Stabilization Board

Abolished and new office created (see above under Department of Commerce)

National Recovery Review Board

Created by Executive Order No. 6632 of March 7, 1934.

American Battle Monuments Commission

Administration of national cemeteries and memorials in Europe transferred from office of Quartermaster General, War Department, by Executive Order No. 6614 of February 26, 1934, effective April 28, 1934. By Executive Order No. 6166 of June 10, 1933, effective August 10, 1933, national cemeteries in foreign countries were transferred to State Department; by Executive Order No. 6228 of July 28, 1933, the transfer was postponed until further order.

Federal Alcohol Control Administration

Created by Executive Order No. 6474 of December 4, 1933. Membership increased and above-cited order amended by Executive Order No. 6576 of January 25, 1934.

Federal Civil Works Administration

Created by Executive Order No. 6420B of November 9, 1933. This administration is "an agency to administer a program of public works as a part of, and to be included in, the comprehensive program under preparation by the Federal Emergency Administration of Public Works." The Federal Emergency Relief Administrator is designated as head of the Federal Civil Works Administration.

National Emergency Council

Created by Executive Order No. 6433A of November 17, 1933, to coördinate the activities under the National Industrial Recovery Act (48 Stat. L., 195), the Agricultural Adjustment Act (48 Stat. L., 31), and the Federal Emergency Relief Act (48 Stat. L., 55). Members of Special Industrial Recovery Board

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added to membership of National Emergency Council by Executive Order No. 6513 of December 18, 1933.

National Labor Board

Continued by Executive Order No. 6511 of December 16, 1933. No formal numbered Executive Order had been issued when the Board was created on August 5, 1933.

National Recovery Administration

Executive Order No. 6551 of January 8, 1934, transferred from Secretary of Agriculture specified functions and powers.

Public Works Emergency Housing Corporation

Designated by Executive Order No. 6470 of November 29, 1933, as agency for the construction, control, etc., of low-cost housing and slum clearance projects under section 202 (d) of Industrial Recovery Act of June 16, 1933 (38 Stat. L., 201).

L. F. SCHMECKEBIER.

Brookings Institution.

Political Meetings in the Chicago "Black Belt."[1] Political meetings constitute one of the means employed by the Negro political leaders in Chicago to develop and maintain party morale. The Republican rallies in the second and third wards are unique affairs, not to be duplicated in other parts of the city. The political meetings have taken over some of the patterns of religious revivals or camp meetings. A party gathering which is not packed and which does not stir up an emotional response is looked upon as very unusual. The audience is attentive, enthusiastic, patient, good natured, and content to sit for many hours on uncomfortable seats. When a speaker says something which strikes a popular chord, the listeners shout, clap, or wave programs, hats, or hands in the air. Politics is evidently something which is very close to their daily life and aspirations. They feel that their jobs, their freedom, their right to vote, their happiness, their very lives almost, are endangered unless their candidates win. At least that is what the speakers bring out, and the audience responds as if it sincerely believed it.

An appraisal of Negro political meetings is difficult to make because when one tries to examine the parts, the vital, exciting whole is lost sight of. Not all of the meetings are held in large halls; there are precinct meetings in homes, regional meetings for a group of precincts, and organization meetings in the party headquarters or some convenient hall. These meetings are usually well staged and provide for entertainment, instruction, and incentives to political action.

[1] This is part of a larger study of the Negro in Chicago politics to be published shortly. The author and assistants have made records of Negro political meetings for the past four years.

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The entertainment features of a mass meeting are sometimes used to attract a crowd. Home talent is used extensively. In the intervals between speeches, bands, tap dancers, jazz orchestras, male quartettes, comedians, buglers, chorus girls, community choirs, and soloists may be brought in to vary the program. When a faction is weak or on the downgrade, professional entertainers may be employed to stem the tide. When the faction sponsoring a meeting is full of vigor, a few campaign ditties executed by school children are regarded as more in keeping with the occasion. The Democrats, and less frequently the Republicans, sometimes draw a crowd by issuing free coupons for a meeting. These are collected at the door, and during the meeting drawings are made from them by lot. Persons holding the lucky numbers receive money, hams, or some other valuable consideration.[2]

A skillful master of ceremonies at one of the Negro political meetings will arrange the order of speakers so that the tempo will be varied. One speaker may be crude in his language, unpolished in his style of delivery, but obviously sincere and forceful. Another may be gifted with words, skilled in voice inflexion, but lacking in drive and human understanding. A third may be learned in history, entertaining, a master of phrases, humorous, adroit at touching upon race foibles, but too obviously an actor. A fourth may be able to work himself into an emotional frenzy, to stir his audience profoundly, to recall vividly examples of race persecution. Still a fifth will exhibit an extraordinary smoothness, a pleasing quality of voice, a wonderful flow of language, a mastery of Bible history, law, and politics, and an ability to arouse his listeners as well. The chairman of a political meeting in the second or third wards has a great variety of oratorical talent to call upon, and he has himself to blame if the meeting is not a success.

The language used by the colored orators reflects the interests and habits of their listeners. Biblical and religious references are very common, even in the mouths of speakers known to be non-church goers. Ministers of the gospel are frequently included in the program of meetings, and are expected to introduce some of the atmosphere of a revival. In starting a political denunciation, one speaker gave as his text the first verse of the fifty-third chapter of Isaiah: "Cry aloud and spare not." Another modified a Biblical phrase in the following manner: "Father, forgive them for they are all messed up."[3]

The Negro's love of song is played upon cleverly. At a recent meeting, the opposition was ridiculed in the words of song titles. The speaker began by quoting, "You'll Understand it Better, Bye and Bye," and ended

[2] Report of political meetings held April 1, 1930, February 27, 1933.
[3] Report of political meetings held November 27, 1931, and April 3, 1932.

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with the titles "I'll Be Glad When You're Dead, You Rascal You" and "That Was the Human Thing to Do."[4] References are made also to the gambling propensities of some of the voters. As one speaker put it, "I don't care if you play policy or not. If you think you can pick a gig or saddle, it is O.K. with me. You can spend your dimes and walk around broke while the boys ride around in their high-powered cars if you want to."[5] The responses of the audience in each of the cases given indicated that the speakers were treading upon familiar ground.

The appeals made at political meetings are fitted to the needs and aspirations of the group. A great deal of emphasis is placed upon the importance of political action with reference to jobs, public and private. The achievements of a given Republican organization in the past in winning jobs for Negroes was on one occasion pointed to with great pride.[6] The job-holders were warned that failure at the polls would mean the loss of their positions. In the case of a new and rising organization, appeals are made to the disappointed office-seekers and to those who have had hopes. Those who are candidates for legislative positions promise to protect the group against discriminatory measures, and those who seek to influence administrative officials through the party hierarchy promise to work for fair treatment in the schools, the courts, and the police stations.

Appeals to rational self-interest are not regarded as sufficient to stir the voters to action. A successful meeting introduced appeals to race consciousness, party loyalty, and civic pride. A masterful exhibition of this style of oratory was given in the campaign of November, 1930. So effective was the appeal that voting appeared to be lifted out of the realm of personal choice into the area of impersonal service for others. In part, one orator said: "You have done marvelous things in Illinois. Negroes who have been fighting these fetters against discrimination for fifty years can rise in a crisis like this and register interest in what is going on. This great advance is evidence that Negroes, though beaten down, will not stay beaten. The Negro has that everlasting spirit that rises. There has been an effort to break the spirit of the Negro. I can tell that the Negro spirit is far from being broken. The Negro with indomitable courage is still facing the rising sun. . . . You aren't going to vote against us. You aren't going to run from Negroes.[7]" The applause that greeted these words

[4] Report of political meeting held April 9, 1932.

[5] Report of political meeting held February 17, 1933.

[6] "Forty years ago, when I came here, there were just a handful of Negroes in this organization. Eighteen hundred dollars was the largest salary any Negro received and there were scarcely a half dozen with jobs. From there we have come to the place where we have controlled 350 jobs with a pay roll up into the hundreds of thousands." Report of political meeting held November 20, 1931.

[7] Report of political meeting held October 31, 1930.

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was deafening. While few colored orators are able to make so dramatic an appeal as this, the theme of race pride is an ever-recurring one at political rallies.

Much more difficult to dramatize is an appeal to civic pride. Judge Albert B. George, in the primary of 1930, pitched his campaign arguments at a high level. He said, in effect, that there were 150 colored lawyers in Chicago, and that as their representative on the bench it was up to him to make good in every way. He was often stopped on the street by people he did not know and was told that he had been very fair in some case before him, even though the speaker lost the case. He knew that a colored man on the bench in Chicago would have a hard time. His supporters knew that, too, and he was glad to say that the leaders had come to him before he took up his judicial duties and told him that they would not ask political favors of him and thus embarrass him.[8]

The treatment of abstract issues is only a part of the task of the Negro orator. The voters pass upon personalities as well as issues, and it is necessary for the organization to "sell" its candidates. The speakers must build up favorable pictures or stereotypes of their own organization candidates and unfavorable pictures of those of the opposition. Some of the spellbinders take their cue from ex-Mayor Thompson and try their skill at extravagant praise, sweeping claims, wild and preposterous charges, and reckless buffoonery. This style cannot be carried to an extreme, because audiences become skeptical, but within limits it can be used to reinforce characterizations that have a fair degree of probability.

The creation of favorable stereotypes is not always easy, as Negroes have shown a tendency to distrust their own leaders. To counteract this, one candidate will be pictured as a "fearless fighter," "a pioneer, rough but pure gold within," "a man of understanding, self-made and successful," "a loyal race man who is unpurchaseable," a man who "admits no inferiority" and who "has broken down social and economic barriers." Another candidate will be painted as a "man of intelligence," a "man who has known poverty and who has a large, generous heart," a statesman, and an experienced public servant who knows the value of tact. Still a third candidate may be pictured as the "popular churchman," the "well-known fraternal leader," the "man with a smiling face and a steel backbone." The qualities that seem to be appreciated by the voters are fearlessness in race matters, adroitness in coping with situations of importance to Negroes, and friendliness toward the masses.

The evolving of Negro political organization has made necessary the unification of various elements in the Negro group. Bitter factional quar-

[8] Political meeting, March 30, 1930.

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rels have occurred during which unfavorable stereotypes were developed by rival leaders in a ruthless fashion. At political meetings the opposition candidates would be called "ignorant and inefficient," "despisers of religion," "dummy numskulls," "oxen in parlors," "grinning jackasses," "cowards," "traitors to the race," "double crossers," "job sellers," 'licentious, crooked, lying hypocrites," "dirty Negroes with aversions to blacks," "white folks' niggers," "pussy-footing, hat-in-hand Uncle Toms," "handkerchief-headed Negroes," and "tools of the lily whites." These loaded epithets would not all apply to the same candidate, and some of them would be deemed so inappropriate that they would not be taken seriously. However, when a candidate's past record has some weak points the opposition is not slow to take advantage of them, provided, of course, that the opposition itself is not too vulnerable.

Many of the colored leaders have shown themselves masters of the technique of party propaganda. They have been sensitive to the currents of opinion in the Negro group and adroit in the manipulation of slogans and symbols. In their ability to play upon the sentiments, emotions, resentments, aspirations, and longings of the race lies part of the strength of the Negro political organizations.

HAROLD F. GOSNELL.

University of Chicago.

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LEGISLATIVE NOTES AND REVIEWS

Governors' Messages in 1934.[1] The gloomy utterances that so distinguished the 1933 messages of the governors have given way to statements of hope and confidence and even argumentative assertions of financial superiority. Governor Laffoon informs his legislature that Kentucky is in the best financial condition of any state in the Union. New York's Governor Lehman declares that the credit of the Empire State stands foremost among any in the United States. Governor Peery asserts that even though Virginia's bonds are outranked in sale value by those of one state, they command a better price than those of the federal government. Less imposing, but still interesting, is the affirmation in South Carolina that a budget has been balanced for the first time in many years, and in Mississippi that a credit at least "convalescent" has been attained.

State Government. Reorganization is urged in Kentucky, Mississippi, New Jersey, and Rhode Island. The outgoing Virginia governor suggests consolidation or abolition of certain bureaus and agencies. Legislative reapportionment is recommended in New York and Virginia. A new congressional redistricting act is also needed in the Old Dominion. The four-year-term-for-governor plea with elections in non-presidential years is repeated in New York. Governor Lehman also would empower the people to initiate constitutional amendments. Voting machines are requested in Rhode Island.

New Jersey's governor declares that the administration of justice from the highest to the lowest court, together with the county officers recording proceedings and executing findings, should be part of a state organization. Virginia's incoming governor deplores court delays, urges consolidation and rearrangement of judicial districts, and the outgoing governor asks substitution of trial justices for justices of the peace in those counties still having them.

A budget law broadened to include more of the features of an executive budget is asked in Mississippi. Rhode Island's Governor Green would abolish the office of commissioner of finance and create that of state budget director. The governor would be required to submit the budget and would be given power to veto items. It is proposed in New Jersey to centralize in a department of fiscal affairs the administration of the budget, the responsibility and authority to prescribe a system of accounts, general direction of the collection of state revenues, the making of state purchases, and the authorization of disbursements and commitments. The placing of all tax proceeds, except possibly road funds, in the general

[1] Published by courtesy of the American Legislators' Association. *Man. Ed.*

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fund is urged in Kentucky. A fund for emergency expenditures is requested in Mississippi. The governor of the latter state impressed upon the legislature the necessity for providing revenue before making appropriations.

Partial restoration of pay cuts is asked by Governor Ely in Massachusetts and by outgoing Governor Pollard in Virginia. The latter also would empower the governor to decrease the number of employees and equalize salaries. The incoming Virginia governor seeks to place certain officers on salaries instead of fees. Protection for civil service and the placing of pension systems on a sound basis is asked in New Jersey.

Local Government. Consolidation is the order for some of Mississippi's more than 7,000 tax districts, New Jersey's 1,250 separate governments, and New York's 13,497 municipal units. A general reorganization is said to be necessary in each of these states. It is further proposed in New Jersey to reallocate the functions of state, county, and local governing areas, and to fix administrative responsibility in an individual officer or body functioning as a unit. The lack of any responsible head in counties is criticized in New York.

Alternative forms of county government should be presented in New York and Mississippi. A new charter should be drafted for New York City to consolidate a great many, if not all, of the functions of the five counties included within its limits. Charter revision is needed generally throughout the state, with home rule recognized in allowing voters to determine upon the form of government. Greater home rule also is the order in Rhode Island.

Finances should be improved in New Jersey by a revision of the municipal budget act and the bond act. Definite limitations would be placed on local budgets. Closer supervision of political subdivisions, adequate auditing, and control of bond issues is needed in Mississippi. A constitutional debt limit should also be prescribed. Although there have been no city defaults in New York, provision should be made to handle any which may occur.

Taxation. A constitutional convention to modernize the tax system, to provide a more equitable distribution of the tax burden, and to broaden legislative authority as to tax methods is asked by Governor Conner of Mississippi. Governor Ely of Massachusetts declares that human ingenuity has practically reached its limit in devising new forms of taxation. The Bay State's governor asserts his dislike for a retail sales tax, but says there is nothing left. Prime necessities should be exempt. Sales taxes were recommended also in New Jersey and South Carolina. Virginia's governor would measure the merchants' tax by sales rather than purchases, and would exact five per cent on admissions to moving pictures. Governor Green in Rhode Island opposes general sales taxes as

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unfair. He would divert the gasoline tax proceeds for purposes other than roads and repeal exemptions. Governor Moore of New Jersey advocates use of all highway construction funds during the next three years for school purposes. Any such diversion will be opposed in Virginia.

Reclassification of real estate for state taxation is asked in Kentucky. The governor also would lift the tax burden from small home owners and the owners of unproductive farming lands. A similar view is presented by the Mississippi governor, who declares that a discrimination is necessary between classes of property and asks the gradual abolition of ad valorem levies on homesteads of a limited value. Governor Moore urges relief from the staggering tax burden oppressing New Jersey real estate. He speaks of fair assessments and equalization as a myth and asks that assessments be on a county basis under more effective state supervision. The overlapping of New York's governmental units is deplored by Governor Lehman, who declares them wasteful and ineffective for assessment purposes. The varying valuations by the many districts is said to be confusing. He states that 11,000 collectors, ten for each town, do the collecting. Governor Connor also argues against Mississippi's 7,000 tax districts, many of which could be consolidated. He further urges on the legislature the need for a policy on tax-forfeited lands. It is urged in Rhode Island that the law permitting appeals by taxpayers not filing a return be repealed. The governor also asks legislation for taxing property in storage and for paying taxes in instalments. In South Carolina, the governor urges that nothing be done that might result in an additional tax upon property.

Enactment of a gift tax and greatly reduced inheritance tax exemptions are asked in Virginia. Lowered exemptions also are requested for the income tax. The governor further urges that the legislature discontinue the deduction allowed for dividends received by taxpayers from corporations doing business in Virginia. He would exact a mileage tax from gas pipe lines, subject the bus receipts of street railways to the gross receipts tax, include miscellaneous receipts of power, light, heat, and water companies in the three per cent tax, and base the sleeping car tax on gross receipts rather than track mileage. He also urges that municipalities operating power, light, heat, or water service outside their limits be subjected to the regular tax. A general one per cent increase in the public utility levies is advocated in Rhode Island.

Public Works. A state planning board in connection with public works, conservation, transportation, health, recreation, etc., is proposed for Rhode Island. Kentucky's governor asks funds to meet federal allotments for the civil works program, and South Carolina's Governor Blackwood desires enabling legislation to promote state projects receiving federal aid. It is recommended in Massachusetts that the state sell bonds

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direct to the public instead of to the United States for the purpose of raising funds to meet borrowings from the United States for public works projects. The governor believes lower interest can be obtained.

Governor Moore recommends that the state take over the greater part, if not all, of the roads in county systems, and that the counties in turn take over the township systems. Continue the pay-as-you-go plan for roads, is the mandate in Virginia. A sewer system which would take care of 87 per cent of the state's population is urged in Rhode Island. Development of a larger potable water supply and measures to draw industry and to develop a greater shipping center are suggested in New Jersey.

Labor. Ratification of the child labor amendment is asked in New York and Rhode Island. State prohibitory legislation also is urged in the latter state. Up-to-date minimum wage laws are requested in Massachusetts. The governor there also recommends continuation of the commission to negotiate uniform labor hours and administration in sister states. Governor Green in Rhode Island suggests a thirty-minute rest period in all cases where employment exceeds five hours. In New York, the legislature is urged to extend the emergency period for limiting hours and days on public works. Governor Lehman also would provide unemployment insurance, forbid "yellow dog" contracts, grant a jury trial for persons violating injunctions, enlarge workmen's compensation laws to include all occupational diseases, extend the system of free employment offices, and provide adequate regulation for fee-charging employment agencies. Regulation and progressive elimination of home work is asked in Rhode Island. The governor of South Carolina requests the establishment of a commission of labor and the placing of the state in a position to coöperate with the United States in the labor situation. Virginia's outgoing governor asks increased protection to labor and the enactment of a standard rock-dusting bill to prevent explosions in coal mines.

Health and Welfare. Virginia's outgoing governor also asked for capital outlays for insane hospitals and additional free beds at sanatoria for tuberculosis. The incoming governor declares the necessity for maintaining public health work generally. Greater care for mental and physical defectives also is said to be needed. Better institutions must be had in South Carolina. New Jersey's governor asks that counties be relieved of the care of the insane, tubercular, indigent, delinquent, and criminal, and that health activities be reorganized on a state-wide basis. He would also give greater attention to prevention of conditions causing disease. In New York, legislation is asked for slum clearance and low cost dwellings.

An old age pension system is requested in Rhode Island. Governor Green further asks a continuation of the organization for unemployment relief until May, 1935, and the governor of the Old Dominion urges con-

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tinued coöperation with the United States for relief to the needy. The former seeks greater sums for veterans' welfare, and the latter declares Virginia's solemn duty to provide for Confederate veterans.

Education. Opinions expressed in New Jersey, Rhode Island, and Virginia are to the effect that educational standards must be maintained. The governor of the last-named state declares that no part of the state government causes him more concern than public education. He feels that the state should not bear the entire education burden, but nevertheless asks additional funds to help provide a minimum eight-month term and an increase in teachers' salaries. He also suggests consideration of tuition at state institutions. Governor Blackwood in South Carolina urges the combining of certain institutions of learning.

Liquor. The New Jersey governor criticizes the state liquor law and considers it a mere makeshift. Both the outgoing and Virginia governors recommend local option. The latter urges the placing of control in a three-man commission. The South Carolina chief executive declares that a wholesome and practicable law regulating liquor and providing for such revenue as is properly incident to such a law would be better than an unsuccessful attempt to enforce a bone-dry prohibition act.

Criminal Law and Enforcement. Numerous recommendations under this head are made by Governor Ely of Massachusetts. He would change the method of selecting jurors, would abolish the grand jury in its present form, and would permit the calling of a grand jury by a justice of a superior court or the supreme court for special purposes of investigation. He asks that defendants in district courts be required at the outset of a prosecution to elect whether to stand trial in the district court without right to appeal or to remove the case forthwith to the superior court upon claim of a jury trial. A reorganization of municipal and district courts into circuits with full-time judges also is recommended. The governor is convinced that the average potential law-breaker is restrained more by the probability of being caught than by the possible length of punishment. To that end, he recommends abolition of the death penalty except for planned murder or armed looting with intent to kill if necessary. The South Carolina governor asks a severe penalty for kidnapping and not less than five years for persons possessing machine guns or other weapons commonly used by kidnappers and hold-up gangs. Permanent revocation of the licenses of drunken drivers is urged. The governor also states that the legislature must provide a "prison life" for criminals assigned to prison. Governor Ely probably expresses a similar thought in saying that the aim of prisons should be to return convicts as better citizens. Governor Peery in Virginia declares that mob violence will not be tolerated.

A centralized department of public safety to control local police forces

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except in routine matters is recommended in Massachusetts. A special coördination under a single head is asked for the metropolitan area surrounding Boston. There is said to be a compelling necessity for state-wide police protection in South Carolina. The New Jersey governor proposes the county as the basis for police protection except in populous municipalities. Rhode Island's governor seeks to abolish state police commissions for certain cities, and return the police power in such cases to the local authorities, but empower the governor to remove for cause.

Banks and Insurance Companies. Bank legislation for the period beginning with the expiration of the emergency act is needed in South Carolina. The Massachusetts governor seeks to remove the twenty-five per cent limit on the amount which the bank commissioner may borrow on the assets of a closed bank in order to pay a liquidating dividend. Outgoing Governor Pollard recommends closer supervision of Virginia banks at their own expense, and also states that he would place the duty of liquidating closed banks with the division of banking and insurance rather than with receivers appointed by the courts. Incoming Governor Peery agrees with this latter recommendation, but would extend it to include insurance companies.

Public Utilities. A probe of utility rates is asked in New Jersey. Dependable utility valuations are needed first in Virginia. The governor of the latter state would give the corporation commission power to amend the rates in time of emergency. He would also require utilities to file full information on proposed stock or bond issues and obtain the consent of the corporation commission. The commission's consent would be needed before a utility contracted with a holding company. Governor Lehman also seeks to control holding companies in New York by limiting charges to cost of service rendered to subsidiaries, and by forbidding utilities to pay money to various corporations in a holding chain for the latter's securities and services without the consent of the utilities commission. The governor also seeks to empower the commission to make temporary changes in rates, to assess a portion of investigating charges against utilities, and to regulate gas transmission lines. He rounds out his recommendations by advocating legislation authorizing municipalities to acquire any public utility plant, to sell its services, and to purchase and sell electricity developed on the St. Lawrence River. Promotion of rural electrification is urged in South Carolina.

Motor Vehicles. A reduction in automobile license fees is suggested in Kentucky, South Carolina, and Virginia. Governor Laffoon would fix Kentucky rates to correspond more nearly with those in the bordering states.

RAYMOND E. MANNING.

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Direct Primary Legislation in 1932–33.[1] Overwhelmed by unbalanced budgets, and wrestling with problems of taxation, public relief, and other by-products of a major economic depression, the legislatures of the past two years have given scant attention to nominations for public office. Except for the adoption of the pre-primary convention in Massachusetts—effected by popular initiative—significant changes were few, and there was much less than the usual tinkering with details.

The adoption of the pre-primary convention in Massachusetts marks the successful culmination of a movement which has been gaining headway since 1921, and which has had support from both party organizations as well as non-partisan groups.[2] In 1927 the modification of the direct primary became one of the major issues of the legislative session. Eventually a bill providing for pre-primary conventions, reported favorably by the committee on elections, was referred to a recess committee. The majority of this committee expressed itself in favor of the idea, but declined to recommend passage of the bill because it felt that it would be impossible to secure favorable action by the legislature "until such time as the public had obtained further education concerning it."[3] By 1932, however, a similar measure, sponsored by a non-partisan group and embodied in an initiative petition, received the endorsement of the majority of a joint legislative committee and was approved by the overwhelming popular vote of 553,822 to 262,948.[4] In making its recommendation, the

[1] The legislatures of all states were in regular or special session in 1932 or 1933. Mississippi held a regular session in 1932; Kentucky, Louisiana, and Virginia held regular sessions in 1932 and special sessions in 1933; Alabama had special sessions in both years; Massachusetts, New Jersey, New York, Rhode Island, and South Carolina held regular sessions in both years; Arizona, Arkansas, Delaware, Idaho, Illinois, Indiana, Maine, Michigan, Ohio, Pennsylvania, Texas, West Virginia, and Wisconsin had regular sessions in 1933 and special sessions in 1932 or in both years; while the remaining twenty-five states held regular sessions in 1933 only. The 1933 session laws of California, New Jersey, New York, North Carolina, and Ohio were not available when this note was written, but the legislation of all but one of these states was covered in full reports from their legislative reference bureaus. Hence this note is complete except for one state—New Jersey. I wish to take this opportunity to thank the American Legislators' Association and the legislative reference services of the following states for prompt and intelligent assistance in supplying material used in the preparation of this note: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Montana, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming. Legislation concerning registration, absent voting, and corrupt practices is not covered in this note unless it affected the primary exclusively.

[2] For details, see Merriam and Overacker, *Primary Elections*, pp. 97–98.

[3] *Report of the Joint Special Committee on the Administration and Operation of the Election Laws*, December, 1927.

[4] Secretary of the Commonwealth, *Election Statistics*, 1932, p. 376.

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committee stated: "It is so generally recognized that the primary system has in practice developed many serious defects that an extended discussion of the subject is not necessary."[5] Such sweeping condemnation was probably unwarranted, but certainly there was no "extended discussion of the subject." Few ventured to oppose the measure, and there was little interest in the voting or the result.[6] Many sincere supporters of the direct primary voted for the proposal because of the conviction that opposition to the existing régime was so strong that the only real choice was between the pre-primary convention and outright repeal.

Briefly, the new law provides for the proposal of candidates for party nominations for all state officers by party conventions preceding the primary.[7] The names of these candidates, together with those of persons named in petitions in the regular way, will then appear upon the direct primary ballot and be voted upon in September. Candidates receiving the endorsement of the convention will have two advantages: their names will appear first on the ballot, the names of those proposed by petition following in alphabetical order; and the words "endorsed for the nomiation by ———— party convention" will be printed on the ballot after their names. Voters may still "write in" the names of persons not printed on the ballot.[8] It will be necessary, therefore, to hold the primary whether any names are proposed by petition or not. Under the new law, Massachusetts will have two primary elections—the so-called "party primary" in April, and the "state primary" in September.[9] In presidential years, delegates to the national conventions, as well as delegates to the state conventions, and party committeemen will be chosen at the party primary.[10] Thus in the future the presidential primary will coincide with the state primary, instead of being held separately as formerly. Other provisions governing the presidential primary have been left unchanged.[11] The pre-primary convention must be held not later than June 15, the exact date being determined by the state committee.[12] The law regulates

[5] *Official Information to Voters*, State Election, November 8, 1932, p. 30.

[6] The proposition was voted upon November 8, 1932, in an election in which interest was centered upon presidential and state contests. The 792,778 voters who left their ballots blank on the pre-primary proposition give eloquent testimony to the lack of interest. In the joint committee on election laws, nine Republicans and one Democrat supported the proposal, while five members—all Democrats—opposed it.

[7] *Acts and Resolves of Massachusetts*, 1932, ch. 310 (to be published in the *Acts and Resolves of Massachusetts*, 1933, p. 3.)

[8] Secs. 7, 12, 21, 22.

[9] Sec. 5.

[10] Sec. 9.

[11] Sec. 7.

[12] Sec. 21.

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the basis of representation in conventions and the rules of procedure to be followed in these assemblies, and prohibits the use of proxies.[13]

Massachusetts is not the first state to experiment with pre-primary conventions, Colorado and South Dakota having tried very different plans.[14] But it is the first state to institute a plan which follows in essential respects the proposal made by Charles E. Hughes many years ago and warmly endorsed by many critics since that time.[15] For this reason, the operation of the plan will be followed with peculiar interest. Will it provide for leadership and responsibility without sacrificing real control by the rank and file of the party, as its advocates claim? Or will it become so impossible for "anti-organization" candidates to counterbalance the advantages of convention endorsement that all possibility of control by the rank and file will be lost? It is to be hoped that the experience of Massachusetts will help us to formulate the answers to these questions.

With a few exceptions, changes in other states are trifling and may be disposed of briefly.

No state has radically changed the scope of its law, although Georgia, Minnesota, and South Carolina have extended the primary to certain local nominations.[16] Washington has provided for non-partisan nominations of justices of the peace, and Wisconsin of officers in certain counties and towns upon acceptance of the plan at a popular referendum.[17]

Idaho has joined the lengthening list of states providing for fall rather than spring primaries, and in the future will hold her primaries in August instead of in April.[18] Minor changes in the dates of primaries were made by Illinois in order to simplify the election calendar.[19]

One important change in qualifications for participation is found in the adoption of the wide-open primary by Minnesota. Hereafter no voter

[13] Secs. 3, 21, 22.

[14] The Colorado law provides that any candidate receiving ten per cent or more of the votes in the convention shall have his name placed on the primary ballot. In South Dakota, the majority and minority factions in the convention were entitled to have their lists of candidates printed upon the primary ballot. In both states additional names could be filed by petition. The South Dakota law was repealed in 1929 (ch. 118).

[15] Mr. Hughes first made his proposal in 1910, when he was governor of New York. A restatement and fuller consideration is to be found in "The Fate of the Direct Primary," in *National Municipal Review*, vol. 10 (Jan., 1921), p. 23.

[16] *Acts and Resolutions of Georgia*, 1933, No. 389, p. 227 (cities of 200,000 or more); *Laws of Minnesota*, 1933, ch. 327, p. 479 (fourth-class cities); *Acts and Joint Resolutions of South Carolina*, 1932, No. 634, p. 1162 (commission government cities of 50,000 to 100,000 population).

[17] *Session Laws of Washington*, 1933, ch. 95, p. 403; *Laws of Wisconsin*, 1933, ch. 27, p. 188.

[18] *General Laws of Idaho*, 1933, ch. 185, p. 341.

[19] *Laws of Illinois*, 1933, p. 561.

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will be required to declare his party affiliation before voting, and candidates for the nominations of all parties will be printed in separate columns on a ballot headed "Consolidated Primary Election Ballot."[20] One wonders if the warning to voters that voting for candidates of more than one party will invalidate the ballot will be sufficient to protect them from many fatal errors.[21] Minnesota's conversion to the open primary is interesting in the light of the strong trend away from that form during the last ten years.[22]

The attempt to bar Negroes from the primaries in Southern states goes merrily on. After the Texas "white primary" law of 1923 was declared unconstitutional by the United States Supreme Court,[23] that state amended its law to give the party state committee power to prescribe qualifications for participation in the primary.[24] The Democratic state committee promptly barred Negroes, and the amended act came before the Supreme Court in 1932. In a five-to-four decision, it was held unconstitutional, the majority of the court, speaking through Mr. Justice Cardozo, maintaining that as the party committee acted under authority of the statute, the discrimination was one arising from the state law, and consequently was a denial by the *state* of equal protection of the laws.[25] It will be interesting to see if the Texas legislature will now repeal all legislation on the subject, leaving the party committee free to act as it chooses, and what the attitude of the Court will be toward debarment of Negroes by a party acting entirely on its own responsibility.

Arkansas has joined the list of Southern states with "run-off" or second primaries. Only the names of the two highest candidates in the first primary will appear upon the second ballot.[26] In Virginia, the commission to revise and codify the election laws recommended a run-off primary in the case of the gubernatorial nomination, but the measure was defeated in the legislature.[27] Washington, which requires successful nominees to receive at least ten per cent of the votes cast in the primary, has given party committees power to fill vacancies caused by the failure of any candidate to qualify under this provision.[28] A novel amendment to the

[20] *Laws of Minnesota*, 1933, ch. 244, p. 306, sec. 2.

[21] *Idem.*

[22] At the present time, only two other states, Montana and Wisconsin, have open primaries.

[23] Nixon v. Herndon, 273 U.S. 536.

[24] See this REVIEW, vol. 24 (May, 1930), p. 377.

[25] Nixon v. Condon, 286 U.S. 73 (1932). For a discussion of this decision, see R. E. Cushman, "Constitutional Law in 1931–32," in this REVIEW, vol. 27 (February, 1933), pp. 54–55.

[26] *Acts of Arkansas*, 1933, No. 38, p. 109.

[27] See *Report* of February, 1932 (House Document No. 31).

[28] *Session Laws of Washington*, 1933, ch. 21, p. 147.

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Nevada law provides that if only two candidates file for a partisan nomination for any office on any *one* party ticket, and no candidates have filed on any other party ticket for the same office, the names of such persons shall be omitted from the primary ballot and both names shall be placed on the general election ballot.[29]

Many minor changes concern provisions governing filing of petitions and declarations of candidacy. Illinois, Pennsylvania, and Wisconsin have increased the number of signatures required for petitions for certain offices.[30] Massachusetts has made it possible for an incumbent in office to indicate this fact after his name on the primary ballot,[31] and Wisconsin now requires the first as well as the surnames of candidates to appear in nominating petitions.[32] Oklahoma and Virginia have made more stringent the avowal of party allegiance to which candidates for nomination must subscribe.[33] A number of other states have made changes in the details affecting the filing of petitions and the form of the ballot.[34]

Hereafter women will be represented on precinct, county, and state committees in Montana, and Oregon will elect a national committeewoman as well as committeeman.[35] Other states have made minor changes in the duties of party committees or the dates when meetings shall be held.[36] The date of the party conventions in Nevada has been changed from June to September.[37]

Maine, which in 1931 passed a new law regulating expenditures in primaries, has tightened up its provisions in a number of important respects. Clubs or groups of voters "organized for the purpose of actually participating in any campaign on behalf of a candidate for nomination to elective office, or tending either directly or indirectly to aid the candidacy of any person for any nomination whatsoever," are now brought within the scope of the law.[38] Most interesting is the provision for the

[29] *Statutes of Nevada*, 1933, ch. 69, p. 82.

[30] *Laws of Illinois*, 1933, p. 568 (state offices); *Laws of the General Assembly of Pennsylvania*, 1933, No. 271, p. 1106 (magistrates in first-class cities); *Laws of Wisconsin*, 1933, ch. 466, p. 988 (city offices).

[31] *Acts and Resolves of Massachusetts*, 1933, ch. 35, p. 42.

[32] *Laws of Wisconsin*, 1933, ch. 284, p. 605.

[33] *Session Laws of Oklahoma*, 1933, ch. 62, p. 114; *Acts of Virginia*, 1932, ch. 392, p. 795.

[34] *Acts of Indiana*, 1933, ch. 144, p. 788; *Acts and Joint Resolutions of Iowa*, 1933, ch. 19, p. 34; *Acts of Kentucky*, 1932, ch. 85, p. 421; *Laws of Minnesota*, 1933, ch. 172, p. 206; *Laws of Montana*, 1933, ch. 62, p. 117; *Acts and Resolves of Vermont*, 1933, No. 3, p. 5.

[35] *Laws of Montana*, 1933, ch. 6, p. 7; *Oregon Laws*, 1933, ch. 77, p. 86.

[36] *Public Acts of Michigan*, 1933, No. 146, p. 216; *Laws of North Dakota*, 1933, ch. 110, p. 161; *Oregon Laws*, 1933, ch. 124, p. 128; *Session Laws of South Dakota*, 1933, ch. 100, p. 95; *General Laws of Texas, 43d Legislature* (1933), ch. 225, p. 762.

[37] *Statutes of Nevada*, 1933, ch. 164, p. 212.

[38] *Laws of Maine*, 1933, ch. 254, p. 422, sec. 1.

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creation of a joint legislative committee, composed of two members named by the president of the senate and three named by the speaker of the house, to investigate the expenditures and liabilities incurred "by and on behalf of" candidates for nomination. It is the duty of the committee to examine the statements filed in accordance with law, and at the request of any candidate, or on its own motion, to make a complete investigation of the financing of the campaign, summoning witnesses and requiring the production of records and papers.[39] The difficulty which arises when an attempt is made to limit expenditures in primary campaigns to enumerated categories is illustrated by the experience of Alabama. In 1932, it was found necessary to add to the list of legitimate expenditures—which had been passed only the year before—radio broadcasting, correspondence, and the use of canvassing cards.[40] Pennsylvania has extended the regulations governing the filing of reports of primary expenditures to treasurers of political committees, as well as candidates.[41] Several amendments deal with penalties for corrupt practices in primaries and the regulations governing contest procedure.[42]

In conclusion, it should be pointed out that during these two years bills providing for outright repeal of the direct primary were introduced in at least eleven states.[43] This would seem to indicate that the paucity of important changes reflects preoccupation with other problems rather than smug satisfaction with the direct primary as it stands.

LOUISE OVERACKER.

Wellesley College.

A Legislative Council for Michigan. In the general elections of 1932 and 1933, Michigan turned the Republicans from her Capitol and courted again her first political love of a century ago. Predominantly Republican for approximately eighty years, the voters of the state demanded a change in administration. The Democratic party succeeded in electing the governor and lieutenant-governor, in filling (with one exception) all of the administrative and judicial offices, and in returning a majority to both houses of the legislature. This repudiation of Republican leadership not only vested responsibility in a new party, but swept into office a host of officials little skilled in practical politics and unacquainted with the major

[39] *Ibid.*, sec. 6.

[40] *General Laws of Alabama*, Extraordinary Session, 1932, No. 298, p. 302.

[41] *Laws of Pennsylvania*, 1933, No. 61, p. 93.

[42] *Laws of Illinois*, 1933, p. 565; *General Laws of Texas, 43d Legislature*, 1933, ch. 38, p. 69; *Acts of Indiana*, 1933, ch. 242, p. 1098.

[43] Colorado, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Montana, South Dakota, West Virginia, and Wyoming. In addition, proposals for a pre-primary convention were introduced in Wisconsin.

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problems of state government—a fact especially evident in the legislative branch.

The previous legislature (1931) had been overwhelmingly Republican: 98 of the 100 house members and 31 of the 32 senators had professed an affiliation with that party. The present legislature (1933–34) is distinctly, yet not overwhelmingly, Democratic: 56 members of the lower house and 17 members of the upper house are Democrats. Unfortunately, these newly created majorities are composed of men with little previous legislative experience. Fifty-four of the 56 Democrats in the house are enjoying their first legislative experiences; one served through the previous session; and Speaker Bradley is serving his fifth term. A similar situation prevails in the senate, where 13 of the democratic members are first-termers. Two served earlier in the upper chamber (1899 and 1911–13, respectively), and two previously sat in the house (1911–13 and 1913, respectively).

Such was the composition of the legislature which convened at Lansing on January 4, 1933, with the state in the throes of the depression and on the verge of financial collapse. Public expenditures were excessively high, tax delinquencies were threatening the operation of governmental agencies, and local units of government were facing default, in some cases bankruptcy. Hopes for immediate legislative relief, which appeared bright on the eve of the session, began to wane during the opening days and became totally eclipsed as weeks passed without the enactment of any legislation of major importance. However, the general public was unaware of the real causes for legislative delay.

The effective organization of the Michigan legislature was one of the most trying and difficult tasks ever undertaken by a victorious party. The legislators, recently recruited from private life, were not prepared to initiate a comprehensive program, nor were they familiar with the legislative process. The experienced members struggled frantically to effect a competent organization, maintain party discipline, and drill the new members in the intricacies of rules and procedure. Executive leadership was likewise inadequate; the legislative program submitted by the governor was incomplete and not acceptable to the legislative branch. All in all, three months were squandered before the legislature was prepared to undertake the consideration of a comprehensive program. Throughout the remainder of the session, the legislature functioned in a creditable manner; however, the net results were subjected to justifiable criticism and, at the time of adjournment, the necessity for a special session later in the year was freely acknowledged.

Speaker Bradley of the house, a serious student of government, had become convinced that the familiar faults of delay, uncertainty, and confusion, with resultant loss of public confidence, were attributable

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directly to the archaic systems of legislation prevailing in a majority of the states. Disappointed because of a recurrence of these faults in an exaggerated form under his leadership, the speaker deemed the time opportune for the realization of his long harbored plan for a legislative council for Michigan. Almost entirely as a result of his efforts, the houses passed, with the necessary two-thirds majorities to give immediate effect to the law, "An act to create a legislative council, and to prescribe its powers and duties; and to make an appropriation therefor."[1] The bill was approved by Governor Comstock on June 28.

The act provides that the council shall consist of nine members: the president of the senate, the speaker of the house, three senators, and four members from the lower house. The latter seven members are to be appointed by the presiding officers, respectively, in such a manner as to insure bi-partisan representation from each of the two houses. Additional members of the legislature may be requested to serve upon sub-committees created by the council, and it is hoped that future appropriations will permit the appointment of expert advisers to these sub-committees. Between legislative sessions, the secretary of the senate and the clerk of the house are subject to the direction of the council. The members serve without additional compensation or expense allowances, except that traveling and incidental expenses may be allowed by the council and charged against a special appropriation.

The primary functions of the council are outlined clearly in the act: "The legislative council shall function during the interim between legislative sessions, and it shall be the duty of the council (a) to prepare a legislative program for submission to the next succeeding legislative session, (b) to accumulate and compile such information as the council may consider useful to members of the legislature, and (c) to furnish such information to members of the legislature."[2] The council has authority to inquire into the cost of all state activities and to have access to "all files and records of any state department, board, or commission."[3] In the course of its investigations, the council, by majority vote, may issue subpoenas requiring any persons to appear to be examined and "to bring any books, records, or papers" the council may direct.[4] The body is free to elect its chairman, adopt its rules of procedure, and complete its own organization. The act affords ample opportunity for thorough investigation and the formulation of a comprehensive program prior to the convening of the legislative assembly.

A shade of resentment toward the council is at present noticeable

[1] *Michigan Public Acts*, 1933, No. 206; Enroll. No. 153, I. E. Bill No. 663.
[2] *Ibid.*, sec. 2.
[3] *Ibid.*, sec. 4.
[4] *Ibid.*, sec. 5.

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among some of the non-council members of the legislature. This ill-feeling is destined to disappear as the true purpose and functions of the council become more evident. The law does not anticipate that the council will become a steering committee for the direction of legislation, nor is there any possibility that it will produce a concentration of power which may wrest authority from the main body or jeopardize majority control. While it is hoped that the members may lend a considerable degree of leadership and obtain greater unity of purpose, the council, as such, can in no way usurp the legitimate functions of the legislature. It is purely an *ad interim* body, vested with no ordinance-making power. The council comes into existence only upon adjournment of the regular biennial session and is automatically dissolved with the expiration of the legislative term.[5] In fact, there is no assurance that the individual members will be returned to the ensuing session to defend the recommendations of the council.

In this attempt to restore legislative authority and responsibility, the sponsors of the plan do not propose to raise any undue obstacles in the way of administrative coöperation in the formulation of the legislative program. In practice, the advice of the administration is solicited, all sessions of the council are open to the governor or his representative, and members are encouraged and expected to consult with administrative officials in the course of their investigations. Furthermore, it is now anticipated that the non-legislative members of the sub-committees will be nominated by the governor, in many cases from his official family. The feasibility of this plan was demonstrated in the set-up of the committee created by the council for the study of liquor control.

Once the idea was enacted into law, legislative leaders lost no time in putting the council to its first practical test. Immediately upon adjournment of the session, the council was organized for the formulation of legislative programs for the anticipated special sessions. Six sub-committees were created which required the services of thirty-five additional persons, several of whom were non-legislative members appointed upon the recommendation of the governor.[6] Non-council members of the legislature named to these sub-committees included in each case the chairmen of the committees of the house and senate to which the bills would ultimately be referred. This policy, it is anticipated, will tend to harmonize legislative and executive differences, as well as expedite committee consideration and insure responsibility in the houses for the recommendations

[5] Under this provision the council retains its official character during special sessions. Some ill-feeling was engendered when the council presumed to continue its activities during the first special session of the present legislature.

[6] Still further sub-committees have been created to study basic problems in state government and are not expected to report to the present legislature.

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of the council. Of the committees named, the one created to recommend liquor control legislation was the only one to report prior to the convening of the first special session, November 22.[7] The personnel of this committee and the mode of its investigation are mentioned here to suggest the probable course of council procedure.

Included in the membership of this committee were the chairmen of the liquor control committees of the house and senate, the chairman of the state liquor control commission, and two disinterested persons appointed upon recommendation of the governor. This group gathered together a mass of information, investigated legislation pending in other states, sent a delegation to inquire into the systems of control practiced in Ontario and Quebec, and conducted a series of public hearings. After six weeks of study, hearings, and compromises, this committee, with assistance from the office of the attorney-general, drafted a liquor control bill and submitted it to the council. This draft, together with executive recommendations, was considered by the council in executive session and finally rewritten. Copies of this new draft were made available to all members of the legislature prior to the date of the special session.[8] Thus within a few minutes after the opening of the session a carefully prepared bill was introduced in the house and referred to a committee which was already familiar with its provisions. However, the council was destined to learn of the perversities of state legislatures. The bill was enacted into law only after almost four weeks of legislative wrangling which produced more than 120 amendments. Yet, in spite of these discouraging reversals, the leadership of the council was seriously challenged only on a single major issue.[9]

The time has not yet arrived when one may safely evaluate the activities of the council. The one question to which it has devoted serious attention is too highly controversial in nature to be a fair criterion of the ability of the council to furnish the desired legislative leadership. Owing to its vigorous activities during the special session, the group has engendered some resentment and criticism, yet even its critics admit that the preliminary work was of exceptionally high character and that a considerable amount of time was saved in the formulation of the bill. However, it is evident that the council has not yet attained the degree of

[7] Reports from several other committees have been accepted by the council and their recommendations were before the legislature for consideration in the second special session, called for February 19.

[8] This procedure, including the drafting of bills, has been followed uniformly by sub-committees and the council in submitting recommendations.

[9] Serious differences arose over the composition of the liquor control commission. The council and the administration clashed on the issues involved in the governor's "insurrection" bond proposal, and the unwillingness of either to give way to the other defeated the measure in the first special session.

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success predicted by its sponsors. We have yet to learn to what extent its recommendations will be respected by the rank and file of legislative members. This political observation comes from the Capitol: "The Council has spent weeks in preparing for the emergency session now in progress, but has yet to see general and willing acceptance of its views on major issues. . . . There is ample evidence that the members supposed to profit by the experience of these 'elder statesmen' want to do the work all over again, and in their own way."[10]

Students of government will agree that the state has moved in the right direction, and those familiar with the situation admit that the careful investigation preceding the drafting of the liquor control bill argues well for the future of legislation in Michigan. It is to be hoped that, in the future, appropriations for the council may be more in proportion to the character of its work, that the services of experts may be made available for investigations, and that additional compensation may be granted to council members. If the council can establish itself as a necessary adjunct to the present organization, the state will certainly be encouraged to provide an adequate legislative reference bureau and an expert bill-drafting service. These reforms would go a long way toward modernizing Michigan's present archaic legislative methods.

HAROLD M. DORR.

University of Michigan.

[10] *Detroit Free Press*, Dec. 17, 1933.

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The Individual in International Organization. International organization is generally regarded as an aggregate of machinery and processes whereby states coöperate with each other for the attainment of common objectives. Granting the validity of this conception, it may be shown that the fields in which states coöperate are of vital importance to individual persons. The international treatment of economic questions looks toward the improvement of the economic status of the individual. The coöperative efforts of states in regard to so-called political questions, such as disarmament, arbitration, and alliances, either promote amicable relations conducive to profitable transactions between the nationals of different countries or lead to hostile activities that injure economic activity and place the individual under the necessity of bearing arms.

The traditional theory of international organization has required that agencies dealing with private rights and interests confine their contacts to states, which assume to sponsor the interests of their nationals. This implies that diplomacy shall be between states in the interest of their respective citizens, that the arbitration of private claims against foreign states shall, in form, be between states, and, in short, that all activities taking place within international agencies shall be among government representatives speaking for individuals. Whenever the individual has seemed to occupy a position of his own by coming into direct contact with an international organ, he has generally acted with the prior consent of his national government.

A number of international agencies able to deal directly with individuals have been created by states, and proposals for others have been brought to their attention from time to time. One of the most striking instances of the provision for private action in international organization was embodied in the convention of December 20, 1907, establishing the Central American Court of Justice.[1] Articles 2 and 3 of that convention read as follows: "This Court shall also take cognizance of the questions which individuals of one Central American country may raise against any of the other contracting governments, because of the violation of treaties or conventions, and other cases of an international character; no matter whether their own government supports said claim or not; and provided that the remedies which the laws of the respective country provide against such violation shall have been exhausted or that denial of justice shall have been shown. It shall also take cognizance of the cases which by common accord the contracting governments may submit to it, no

[1] For text, see *British and Foreign State Papers*, Vol. 100, pp. 841–847.

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matter whether they arise between two or more of them or between one of the said governments and individuals." A number of cases were brought to the Court involving litigation between an individual and a foreign state.[2] The Court was closed in 1917, following decisions regarding the Bryan-Chamorro Convention.

In 1907, a convention was drafted at The Hague for the creation of an international prize court to act as a court of appeals from national prize courts. It proposed to allow individuals, under specified conditions, to appeal to the international tribunal.[3] In the event that a neutral individual sought to bring an appeal, the state of which he was a citizen might either forbid the action or undertake the proceedings in his place.

Discussion of the wisdom of permitting individuals to appear in their own name in the Permanent Court of International Justice occurred in the Committee of Jurists which formulated the Statute. Some members of the committee were favorable to the idea, believing that justice for aliens in national courts was difficult to achieve and that the processes of diplomacy for the settlement of individual claims were lacking in justice.[4] The majority of the committee were not interested in the project, which therefore was dropped. Although unwilling to provide for action by individuals in the Permanent Court of International Justice, the committee put itself on record as favorable to the creation of a high court "competent to try crimes constituting a breach of international public order or against the universal law of nations."[5] It is apparent that such a project would permit the individual to come into contact with an international body only as one accused of crime, and not by his own action.

The advisability of allowing individuals to come before international judicial bodies was taken up by the Institute of International Law at its 1929 meeting.[6] A committee of the Institute recommended four general conditions under which action might be brought before an inter-

[2] Cases were brought by Dr. Diaz, a national of Nicaragua, against Guatemala (1908), by Salvador Cerda of Nicaragua against Costa Rica (1911), and by Alejandro Numez of Nicaragua against Costa Rica (1913). For summaries, see M. O. Hudson, "The Central American Court of Justice," *American Journal of International Law*, Vol. 26, pp. 759–786. Discussion may be found also in J. H. Ralston, *International Arbitration from Athens to Locarno* (Stanford University, 1929), pp. 244–245.

[3] J. B. Scott, *The Hague Conventions and Declarations of 1899 and 1907* (New York, 1915), pp. 188–203, Articles 4 and 5 of the Convention.

[4] *Proces-Verbaux of the Proceedings of the Committee*, pp. 204–206.

[5] This proposal was in Resolution II of the Committee of Jurists. For their report, see *ibid.*, pp. 747–748. The subject is discussed by Lord Phillimore in an article entitled "An International Criminal Court and the Resolutions of the Committee of Jurists," *British Yearbook of International Law*, 1922–23, pp. 79–86.

[6] *Annuaire de l'Institut de Droit International* (New York, 1929), Vol. 1, pp. 505–557.

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national tribunal by individuals.[7] The Institute contented itself, however, with the adoption of a resolution expressing its opinion "that there are cases in which it would be desirable that the law allow individuals to act directly, under conditions to be determined, in their differences with states."[8]

Within the realm of international administration, provisions have occasionally been made whereby the individual is in direct contact with an international agency. An outstanding example is afforded by the International Joint Commission for the United States and Canada, established in 1909 to deal with the use of boundary waters.[9] The commission passes upon cases presented to it by individuals, involving the use, obstruction, or diversion of the waters, and issues permits in the performance of this task.

When an international administrative system takes the form of a condominium, the officials of the governing states are in immediate contact with individuals, defining private rights and duties, adjudicating disputes, and performing other services. This is evident in the system of international control for the city of Tangier, now in force. As provided by the convention of 1928, the functions of government within the city are divided between a group of European nations and the sultan of Morocco.[10] Legislative functions are delegated to a group of 27 persons representing 10 different nationalities. City administrative offices, which are in constant touch with native subjects, are selected from designated European states. For instance, the local police system is directed by French and Spanish officers. There is a mixed court for the city, containing judges of Belgian, British, Spanish, French, and Italian nationalities.

Administrative arrangements in force under the mandate system, in the European system of minority protection, and in the Saar Basin permit to the individual a right of petition which is significant in international procedure. In the mandate system, it is possible for the natives of man-

[7] They were: (1) when individuals are *créanciers* of a foreign state in connection with the execution of financial obligations; (2) when individuals are injured by violations of treaties by foreign states; (3) when individuals regard themselves as injured by illegal acts by foreign states; and (4) when individuals have a direct interest in the solution of conflicts of nationality. The committee also recommended that states proceed against individuals in the international court unless they preferred to follow internal procedure.

[8] *Annuaire de l'Institut de Droit International*, 1929, Vol. 1, p. 311.

[9] *British and Foreign State Papers*, Vol. 102, p. 137. See also R. A. MacKay, "The International Joint Commission Between the United States and Canada," *American Journal of International Law*, Vol. 22, pp. 314–316, and C. J. Chacke, *The International Joint Commission Between the United States of America and the Dominion of Canada* (New York, 1932).

[10] *Treaty Series* (British), No. 25, 1928. See also G. H. Stuart, *The International City of Tangier* (Stanford University, 1931).

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dated areas, and for other individuals as well, to send petitions to the Mandates Commission asserting grievances.[11] Native petitions must be forwarded to the commission through the mandatory in charge, accompanied by any comments which the latter may wish to make. Petitions emanating from other sources go directly to the chairman of the commission, who determines which of them are sufficiently important to justify requests for explanations from the mandatories concerned. The Mandates Commission later decides which of the petitions submitted shall be brought to the attention of the Council. Although an accredited representative from the mandatory state is present when the Mandates Commission is discussing a petition, no provision has been made for the oral hearing of petitioners.[12]

While the procedure in minorities complaints permits only the members of the Council of the League of Nations to call the attention of the Council to actual or impending violation of treaty rights, provision has been made whereby individual members of a minority group may dispatch a petition to the Council setting forth grievances.[13] A subcommittee of three from the Council examines the petition; and on the basis of the findings made, or wholly apart from the findings, any member of the Council may bring the matter to the Council's attention. Both the subcommittee and the Council itself may be in direct touch with the government concerned, but no such contact is maintained with the complaining minority.

The Council of the League of Nations has provided that inhabitants of the Saar Basin may send petitions to the Governing Commission, which is required to forward them to the Secretary-General with such comments as it cares to make.[14] The commission also maintains other direct contacts with the natives. It is within the power of the agency to

[11] The system of petitions in the mandate system was defined by a resolution of the Council of the League of Nations adopted on January 31, 1923. See *Official Journal*, March, 1923, pp. 211, 298. The system is well described in Q. Wright, *Mandates Under the League of Nations* (Chicago, 1930), pp. 169–178.

[12] Several discussions of the question of permitting petitioners to appear in the commission have occurred. On one occasion the commission recommended to the Council that such an arrangement be made, but without avail. See Q. Wright, *op. cit.*, pp. 173–177.

[13] This procedure was defined by the Council in resolutions adopted on October 25, 1920, June 27, 1921, and September 5, 1923. For the resolutions see, respectively, *Official Journal*, Nov., 1923, pp. 1426–1432; *ibid.*, July-Sept. 1921, p. 22; and *ibid.*, Nov., 1923, pp. 1293. The subject of "Procedure in Minority Complaints" is discussed by J. S. Roucek in *American Journal of International Law*, Vol. 23, pp. 538–551. The procedure of the League in minority cases is ably described in J. Stone, *International Guarantee of Minority Rights* (London, 1932).

[14] The provisions relating to the powers of the Saar Basin Governing Commission may be found in the Treaty of Versailles, Pt. 3, §4, annex.

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modify local laws and regulations after consultation with representatives of the inhabitants. In the realm of adjudication, the commission has established courts to hear appeals from the local tribunals.

The individual has not, to date, been given a place of any importance in the field of diplomacy or in conference action generally. Diplomacy is conducted by representatives of governments rather than by individuals acting in their own name or as spokesmen of groups or interests apart from governments. In view of the fact that the primary function of conferences is to negotiate treaties which may later become binding upon states, governments will be loath to have the negotiations in the hands of persons whom they cannot control. Were it to become the duty of conferences to prescribe rules binding directly upon individuals, without the necessity of states accepting them, the direct representation of individuals would be appropriate; but in that event a legislative body would have been established. The general conception of diplomacy, its origin and history, have all been based on the supposition that it is an affair of states.

Nevertheless, it is entirely possible for states in the process of negotiation, particularly when an international conference is used, to name as their representatives persons who are primarily spokesmen of certain select groups of people. This is the case in the conferences of the International Labor Organization, which are composed of "four representatives of each of the members, of whom two shall be government delegates, and the other two shall be delegates representing respectively the employers and the work people of each of the members."[15] The non-government delegates are selected by the member-states in agreement with the industrial organizations "which are the most representative of employers or work people, as the case may be, in their respective countries."

There have also been international conferences, usually known as semi-public conferences, in which the delegates of governments coöperated with private individuals. Such meetings are not so much diplomatic in character as consultative. They do not negotiate treaties, and if conclusions are formulated at all, they are in the shape of resolutions. The Pan-American scientific congresses are organs of this character, with government delegates and delegates from leading scientific associations and educational institutions taking part in their proceedings.[16]

The idea of functional representation, which has made much headway in some of the European states, particularly Italy, Russia, and Germany,

[15] Treaty of Versailles, Art. 389.

[16] See, for instance, the *Proceedings of the Second Pan-American Scientific Congress*. p. v, for the composition of the gathering. The Pan-American financial conferences of 1915 and 1920 furnish another illustration of organizations combining public and private activities.

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has been discussed by several writers with reference to international organization.[17] M. Scelle, in considering the desirability of "democratizing" the League of Nations, criticizes the present system of representation as being confined entirely to states, and advocates a system admitting direct representation of private groups.[18] Adoption of such a proposal would give the individual a place of his own in international organization, apart from that which he possesses by reason of his attachment to his government. The plan involves minimizing the theory of geographical representation, based upon the governing units of society, and stressing the representation of social or economic groups. It envisages a more thoroughgoing adoption of the doctrine of functional representation than that embodied in the International Labor Conferences, where the delegates of economic groups are appointed by governments. It carries the doctrine of pluralism to a logical conclusion in the realm of international affairs.

It is apparent that the present position of the individual in international organization is regarded with dissatisfaction by many critics, some of whom are entirely sympathetic with the basic principle of international organization as opposed to cosmopolitanism, and upholders of a system of national states. Support for their position is found in the practical results which they believe might follow from adjustments favorable to the position of the individual. It is argued that to permit individuals to appear in international courts in their own behalf will relieve diplomatic mechanisms of the necessity of affording protection at the moment when local justice is alleged to have been denied, and that consequently the relations between nations will be improved.[19] Similarly, the creation of international administrative agencies empowered to regulate the activities of individuals would remove the subjects in question from the ordinary channels of diplomacy. With respect to international conferences, the main advantage sought in the advocacy of representation for the individual through other media than governments, or by allowing private members to sit with government delegates, is that all interests affected by a proposed action shall have an opportunity to assert themselves.

[17] R. Emerson, *The State and Sovereignty in Modern Germany* (New Haven, 1928), pp. 273–274; C. Delisle Burns, *The World of States* (London, 1917), pp. 121–122; G. Scelle, *Une crise de la Société des Nations* (Paris, 1926), pp. 140–142.

[18] G. Scelle, *op. cit.*, p. 140.

[19] While this is the most common argument used in behalf of proposals to permit individuals to appear in international courts, others have been presented. Professor Eagleton points out that in international claims commissions where private claims are made through governments, loss of nationality by the individual claimant before a decision is made nullifies the claim. He points out also that, in the case of *staatlos* persons, claims against a foreign state cannot be preferred, since there is no state able to do so. See his *International Government* (New York, 1932), p. 182.

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For many years there has been no agreement among writers as to the status of the individual in international law.[20] A common view has been that the individual can be neither a member nor a subject of the international community.[21] Increasing support, however, has been given during recent decades to the opposite doctrine, contending that the individual is, in general, a subject of the law. A group of writers has argued that certain branches of the law, such as those relating to piracy, blockade, and contraband, necessarily imply the subjectivity of the individual.[22] A more radical school, rejecting entirely the doctrine of state sovereignty, has given even greater emphasis to the position of the individual.[23]

While it is not the present purpose to try to solve the problem of the status of the individual in general international law, it may not be inappropriate to indicate the effect produced upon the individual's status through his admittance into international agencies. It is evident that in the great majority of instances the individual's presence in international agencies has been legitimized by the state of which he is a citizen. In such cases, he would appear to have no independent position in international relations, apart from that provided by his own state.

Occasionally, however, the individual's rights in international bodies have not been derived from his state. This is particularly true where the right of petition has been granted. Within the minority system, the right of petition was provided by action of the Council of the League, on which the states concerned have no permanent representation, and some of them were lacking even in temporary representation at the time when

[20] An able discussion of this subject may be found in N. Politis, *The New Aspects of International Law* (Washington, 1928), pp. 18–31.

[21] This is the attitude of the following writers: T. J. Lawrence, *The Principles of International Law* (7th ed., by P. H. Winfield), p. 65; L. Oppenheim, *International Law* (1905), Vol. 1, p. 19 (1920 ed., by R. F. Roxburgh), Vol. 1, pp. 456–460; A. Hershey, *Essentials of International Public Law and Organization* (rev. ed.), p. 157; C. G. Fenwick, *International Law* (1924), p. 85.

[22] J. Westlake, *International Law* (1907), Chap. 2; Kaufman, *Die Rechtskraft des International Rechts* (1899); Wheaton, *Elements of International Law* (8th ed., 1866), Par. 19; A. W. Heffter, *Le droit international de l'Europe* (1883); G. Diena, "Le traité de conciliation et de reglément judiciare entré l'Italie et la Suisse," *Revue de Droit International et de Législation Comparée*, Ser. 3, Vol. 6, pp. 1–16; H. Bonfils, *Manuel de droit international public* (1912 ed., by Fauchille), Nos. 154, 157.

[23] See W. Schücking and H. Wehberg, *Die Stazung des Völkerbundes* (Berlin, 1921); H. Kelsen, *Das Problem der Souveränität und die Theorie des Völkerrechts* (Tübingen, 1920). Professor Stowell, in his *International Law*, p. 8, holds that in the past states as "agents for the enforcement of international law have been confused with "subjectivity," and that "fundamentally the law of nations is a law of individuals, enforced through the agencies of the governments of the communities into which mankind is apportioned."

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those decisions were made.[24] Native right of petition in the mandated regions is also based on a Council resolution. On account of the uncertainty as to where sovereignty over these peoples is lodged, it would be a hopeless task to seek to discover whose consent would be needed in order to preserve the dependence of the individual in mandated areas upon his sovereign power.[25] Such arrangements as these doubtless provide the individual a status of some independence in international relations, thereby adding significantly to the arguments of those who for some time have claimed that he is a subject of the law.

It is apparent that whatever status in international law the individual now possesses, as a result of his contacts with international agencies, has been given him by states, acting either through treaties or through the Council of the League. His status is, therefore, dependent upon international action, to which his own state has usually, but not invariably, been a party. Unlike the rights and duties of states in international bodies, those of individuals are liable generally to annulment without the consent of the persons enjoying them. Present international organization does not admit any inherent right of individuals to a status of their own. It follows from these facts that the international basis of world society, as opposed to cosmopolitanism, remains intact. Cosmopolitan methods become, under such a régime, expedients of internationalism, mere tools to be taken up or laid down by states in their mutual relations. This condition must continue as long as states retain the right of annulling individual rights, regardless of the extent of the rights conceded.

Projects for direct private action in the machinery of internationalism necessarily contemplate restrictions upon the freedom of action which states possess. Most of these restrictions are identical in character with those that states have already accepted in other connections. For instance, the limitation upon national freedom involved in an agreement by a state to submit disputes with other states to judicial settlement is, in principle, like that implied in conventions permitting suit by individuals. It may also be shown that states have, by treaties, acquired for their nationals the right or opportunity of taking certain actions abroad, quite analogous, so far as the problem of sovereignty is concerned, to the right of acting directly in international agencies. An arrangement by treaty to the effect that the nationals of a state may lease or own land

[24] The following states are under such minority provisions: Albania, Austria, Bulgaria, Czechoslovakia, Danzig, Estonia, Finland, Greece, Hungary, Latvia, Lithuania, Poland, Rumania, Serb-Croat-Slovene State, and Turkey. See *Protection of Linguistic, Racial, and Religious Minorities by the League of Nations. Provisions Contained in the Various International Instruments Now in Force* (1927).

[25] Regarding sovereignty in mandated regions, see Q. Wright, *op. cit.*, pp. 327–339.

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abroad, like an agreement for direct action by individuals in international agencies, implies that the state whose nationals have obtained such rights will offer no unreasonable impediment to the exercise of them. In both instances, states have paved the way for actions abroad by their respective nationals, over which little or no state control can later be exercised.

Proposals to extend the individual's realm of activities in international relations are more harmonious with some theories of sovereignty than with others. An application of the doctrine of functional representation to diplomatic organs must involve a complete acceptance of the pluralistic conception of sovereignty. The individual, acting through social and economic groups would, under such a system, be on an identical basis with states. The international basis of his status in law would be destroyed, so that his rights and duties would more closely approximate those of states. On the other hand, for governments to select as their representatives in international bodies persons who have attachments to certain social or economic groups, following the practice within the International Labor Organization, implies no admission of pluralism. The appointee, in this case, remains a government representative.

Generally, the creation through international action of individual rights in administrative and judicial organs does not add to the problem of sovereignty in international relations. Such arrangements, in relation to the problem of sovereignty, are no more difficult to explain than other agreements by which states limit their freedom of action, or create new international persons such as the League of Nations. The denial by many writers that sovereignty implies the absolutism of the state in international affairs conforms strikingly to the facts of international life as exemplified by such treaties.[26]

It is probable that the opposition of states to further limitations upon their freedom of action is more of an obstacle to an extension of the individual's position in international organization than are the theoretical aspects of sovereignty. Governments are notoriously reluctant to make commitments which tie their hands in unforeseen situations. It follows that projects calling for increased individual action in international agencies must not too far invade the domain of traditional state action. Doubtless differences of opinion would arise as to the proper limits for individual action.

It is not the purpose here to define arbitrary limits to the allowance of private action in affairs now under governmental control. Having called

[26] For discussions of the problems of sovereignty in international affairs, see R. Lansing, *Notes on Sovereignty* (Washington, 1931); J. W. Garner, "Limitations on National Sovereignty in International Relations," in this REVIEW, Vol. 19, pp. 1–24; J. Mattern, *The State, Sovereignty, and International Law* (Baltimore, 1928); H. J. Laski, "International Government and National Sovereignty," in *Problems of Peace* (London, 1927), pp. 288–301.

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attention to the fact that several points of contact have already been established between individuals and international agencies, it remains merely to suggest that others of a similar nature might be feasible.

It has already been indicated that much support has been given to projects looking toward the appearance of individuals in their own name before international courts. There has been no unanimity, however, as to the types of action that might be placed under such a régime.[27] The most conservative, and probably the most tenable, attitude is that appeal to an international tribunal should not be possible in cases of either contract or tort, unless an international responsibility of the defendant state can be plausibly asserted.[28] To allow an appeal prior to an allegation of denial of justice would result in a form of extraterritoriality for aliens. International law does not apply until issues relating to the responsibility of a state are raised and, consequently, it is not appropriate to recognize an international jurisdiction prior to that time. In the case of the project for an international prize court in which individuals may appear, international jurisdiction may be advocated on the ground that the law to be administered is international and that local courts should not be the final judges of such law.

States which have committed themselves to the principle of compulsory jurisdiction by signing the Optional Clause can find little in the way of argument to oppose actions against them by individual aliens instead of states in international courts. Once a state permits itself to be sued, it does not seem to be important whether action is begun by a foreign state or by one of its citizens. The positive advantage of substituting private suit for public and, at the same time, giving an international tribunal a jurisdiction which the defendant state cannot deny, rests in the fact that controversial issues relating to the protection of alien rights would be removed from the arena of diplomacy. Diplomatic protection in its present form is frequently unjust, depending in the last analysis upon the strength of the protecting state rather than upon the inherent merits of the claims presented.

Although in a number of international administrative systems provision has been made for direct action by individuals, little discussion has been given to the theoretical aspects of the subject or to the practicability of extending the individual's opportunities in this field. On the one hand, in current practice the majority of international administrative bodies deal with the affairs of states, and on the other hand, the great bulk of private

[27] This was evident among the members of the Institute of International Law. See *Annuaire de l'Institut de Droit International*, 1929, Vol. 1, pp. 257–272.

[28] This attitude is well defended in E. M. Borchard, "The Access of Individuals to International Courts," *American Journal of International Law*, Vol. 24, pp. 359–365.

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interests that are treated internationally are under the control of foreign offices or their subordinates. As a general rule, it would seem feasible that, when a subject of international regulation has separate and distinct national bearings, it should be left under the management of foreign offices or placed under an international administrative body confined in activities to contacts with states. Both arrangements permit national interests opportunity for expression.

If the interests in question are of general concern, without giving rise to distinct national attitudes, it would appear practicable to construct international bodies to administer them, permitting such agencies to deal directly with individuals. Admission is thereby implied that the Society of Nations as a group is more concerned than are separate states with the management of specified affairs, and that consequently mechanisms of a cosmopolitan nature, based on international treaties, may appropriately handle them. The difficulty of applying such general principles is, however, apparent. Disagreement as to the nature of the interest in question will inevitably lead to controversies over the form of the control to be established.

Among types of activities that might, with varying degrees of confidence, be regarded as falling within the category described in the preceeding paragraph, there is one which seems particularly to deserve attention. International loans by individuals have long been a subject of wide interest and importance.[29] They have been made to weak or backward nations under conditions that have subjected those states to several forms of external control. Prospects of default stimulate tendencies toward intervention. Some governments have tried to mitigate the evils that accompany the foreign investments of their citizens by subjecting proposed loans to the scrutiny of their respective foreign offices, whose consent is made either essential or desirable before loans may be floated.[30]

The same considerations that have led to advocacy of individual action against states in international courts when denials of justice are alleged might be used in this connection to justify an international administrative body with powers over the individual in the making of foreign loans. Both in the provision of remedies for denials of justice and in the floating of foreign loans, national governments should be interested only in procuring just and satisfactory arrangements for their citizens. No government

[29] On this subject, see E. M. Borchard, *The Diplomatic Protection of Citizens Abroad* (New York, 1915), Pt. 1; T. W. Overlock, *Foreign Financial Control in China* (New York, 1919); and B. H. Williams, *Economic Foreign Policies of the United States* (New York, 1929), Chaps. 6–11.

[30] See B. H. Williams, *op. cit.*, Chap. 5, and C. C. Hyde, "The Negotiation of External Loans with Foreign Governments," *American Journal of International Law*, Vol. 16, p. 523.

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policy should be affected in either case. The most interested parties in both instances are the individuals involved and the international community, which is anxious to prevent the development of conditions that threaten the amity of nations or place one of its members in a suspicious light because of aggressive activities in behalf of the protection of its citizens or their property. Just as the appearance of individuals before international courts in cases of denials of justice would relieve states of the necessity of extending protection, so the submission to an international administrative body of projects for foreign loans would have the effect of relieving states from responsibility for investments and of preventing a large number of loans that might prove troublesome. In so far as questions of denial of justice center about foreign investments, it would be consistent to establish some measure of international responsibility for original flotation as well as for later protection through judicial machinery. Standards of reasonable foreign investments might be agreed upon in a general way in an international treaty and administered by an international body. Such an organization would, it is believed, provide an analogy in the field of international administration to the judicial treatment in international tribunals of cases involving denials of justice.

It has already been shown that the individual's place in diplomacy cannot be enhanced through the adoption of the idea of functional representation without undermining fundamental principles of international organization. The selection of the representatives of special economic or social groups as government delegates, following the method of the International Labor Organization, furnishes a compromise with the principle, which, conceivably, might be more widely recognized. As a system of representation, it is best fitted for conferences emphasizing the economic or social aspects of the questions treated. Any future extensions of the idea would be expected to be within those fields.

The purpose of this paper has been merely to discuss the questions of theory involved in arrangements for direct action by individuals in international bodies, and to suggest possible, or even logical, extensions of the principle. It is recognized that any dogmatic proposal to overhaul the present constitution of internationalism along such lines would be open to serious objections. The gradual extension of the rôle of the individual in foreign affairs seems, however, entirely natural and practicable.

NORMAN L. HILL.

University of Nebraska.

The Administration of Mandates by the British Dominions. The former German colonies occupied by the Dominions in 1914 were entrusted to them, as mandatories under the League of Nations, at the Peace Conference of 1919. Of these territories, administered as C mandates since

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December, 1920, three are located in the South Seas. Western Samoa, now a mandate[1] of New Zealand, is the larger part of a small group of islands; New Guinea, a mandate of Australia, consists of the northwestern portion of the large island of New Guinea and numerous smaller islands; while Nauru, a British Empire mandate administered by Australia, is a tiny phosphate island. The fourth Dominion mandate, South-West Africa, is a large and somewhat arid territory adjoining the Union of South Africa, which acts as mandatory.[2]

Upon the outbreak of the World War in 1914, the Dominions willingly acceded to Great Britain's request for seizure of German colonial wireless stations by occupying these neighboring territories, German possession of which they had long begrudged.[3] At the Peace Conference, Mr. Lloyd George and the Dominion premiers put up strong arguments for annexation of these occupied colonies. Public sentiment in New Zealand and Australia undoubtedly favored British annexation of Western Samoa and New Guinea, respectively, but would probably have supported direct annexation of the valuable phosphate island of Nauru. South African opinion was, for the most part, favorable to direct annexation of South-West Africa. President Wilson's opposition to annexation resulted in a compromise establishing for territories occupied by the Dominions and Japan the C mandate system, which gives the mandatories a large degree of control, amounting to a monopoly in the economic field.

Though all three Dominions relied on the treaty of Versailles as a legal basis for their control of mandates, their methods in assuming such control varied according to differences in imperial and international outlook. South Africa, always restive under imperial restrictions and jealous of her international status, asked no aid from the British government in taking over her mandate, but relied on her constitution and on her international status conferred by the treaty of Versailles. New Zealand, by contrast, always loyal to Great Britain and slow to claim a separate international status, secured a British order in council authorizing her administration of Western Samoa. Australia, without obtaining specific aid from the British government, relied upon the British Treaty of Peace

[1] The term *mandate*, as used in this article, refers not merely to the text of a mandate agreement, but usually to the mandated territory itself.

	Area in	*Classified population in 1930*			
[2] *Mandate*	*sq. miles*	*European*	*Chinese*	*Native*	*Total*
Nauru	9.3	147	1,100	1,427	2,684
New Guinea	93,000	2,917	1,238	521,385	525,540
Western Samoa	1,235 (a)	2,749	955	40,687	44,571
South-West Africa	322,450	31,586		243,936	275,522

(a) Area of two principal islands, Savai'i and Upolu.

[3] Complete subjugation of South-West Africa was delayed until July, 1915, by the Boer rebellion in South Africa.

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Act, as well as upon her own constitution, in assuming control of New Guinea. Australian administration of Nauru, a British Empire mandate, however, results from an inter-imperial agreement embodied in a British statute. This Nauru Island Agreement of 1919 between Great Britain, Australia, and New Zealand provided that the three governments should buy the interests of the Pacific Phosphate Company in Nauru, and should thereafter have the privilege of purchasing phosphates at cost.[4] The phosphate works, under the agreement, are controlled by the British Phosphate Commission consisting of three members, one appointed by each of the governments concerned. Power to appoint the civil administrator of Nauru was to be rotated among the three governments. Thus far, however, the Australian government, which first occupied the island, has exercised it.

With regard to the status of inhabitants of the Dominion mandates, there has been a tendency on the part of the mandatories to give their own nationality to European aliens in the mandates where there are such aliens, notably in South-West Africa, where, by an act of the South African Parliament of 1924, all Germans not declining naturalization were made British subjects. Furthermore, by the Union Nationality and Flags Act of 1927, all British subjects in South-West Africa, including naturalized British subjects who had resided three years in the territory, were made nationals of the Union of South Africa. This movement has been sanctioned with reluctance by the members of the Permanent Mandates Commission and Council of the League of Nations, who are unwilling to make a precedent of the case. Because of certain Council resolutions of 1923, the mandatories have not attempted to impose their nationality upon the native inhabitants of the mandates, who may apply for individual naturalization in Western Samoa and South-West Africa, but are otherwise described as British protected persons, except in the case of South-West African natives, who are declared to be under the protection of the Union of South Africa. The mandatories have not, however, always made it clear to the natives that they are not British subjects, a situation which has called forth the criticism of the Permanent Mandates Commission.

[4] The agreement provided that the three governments should pay £3,500,000 to the British Pacific Phosphate Company, which had acquired a valuable concession under the German régime. Great Britain and Australia were each to pay forty-two per cent of the sum and New Zealand sixteen per cent, while each country might purchase phosphates in the above proportions. So far, Great Britain has purchased practically none, while Australia and New Zealand, as permitted by the agreement, have thus been enabled to buy more than their proportionate share. *British Commons Debates*, vol. 130, cols. 1300–1307 (June 16, 1920); *Report on Administration of Nauru*, 1931, pp. 22–25.

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After the C mandate system was established, the Dominion mandatories terminated the administration of the several territories by military forces and established civil administration. A study of the forms of civil government in the Dominion mandates shows that while the general framework is similar in all cases, there are marked variations within the framework, due to the size of the mandate, to its degree of propinquity to the mandatory, and to the number and character of its population. The mandatory's earlier experience with backward peoples has also influenced the form of government established in the mandate.

The chief executive official in a Dominion mandate, the "administrator," has large governmental powers, limited, however, by the mandatory, whose ultimate responsibility for the mandate must be preserved, according to standards established by the Permanent Mandates Commission and Council. Important executive powers of the administrator include the appointment of public service officials, members of advisory councils or legislative bodies, and judicial officials. The administrator's legislative powers are exercised by executive proclamation, especially in Nauru and South-West Africa, or in conjunction with a legislative body in Western Samoa and South-West Africa. The administrator of New Guinea has heretofore had the very restricted legislative power of making regulations under ordinances of the governor-general of Australia; but in accordance with the New Guinea Act of 1932, the administrator and the legislative council authorized by the act will henceforth exercise a subordinate legislative power.[5] Judicial powers of the administrator, in addition to certain appointive powers, are limited to pardon and remission of sentence, except in Nauru, where the administrator has made procedural rules, sat on courts, and heard appeals. The Dominion mandatory exercises control over the administrator directly through appointments and legislation, and indirectly through instructions to the administrator and reservation of legislation made by him alone or with a subordinate legislative body. From a legal point of view, the strongest administrator is that of Nauru, with that of South-West Africa in second place.

The men who have served as administrators of the Dominion mandates are a distinguished group, the majority of them having notable military records. Though none of them has been a veteran colonial administrator,[6]

[5] *Australian Parl. Debates*, p. 2189 (Nov. 10, 1932).

[6] General Griffiths, though a professional military man, has had the widest experience among the administrators of Dominion mandates, for he served as military administrator of New Guinea prior to 1921, and then as civil administrator of Nauru in 1921–27. Finally, in June, 1932, he was appointed acting administrator of New Guinea for a year. Permanent Mandates Commission, *Minutes*, XXII, pp. 56–58.

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they have, apparently, interested themselves in the welfare of the inhabitants of the mandated territories. When there has been a conflict of interests between European and native inhabitants of a territory, the administrators have, on the whole, upheld the interests of the natives, especially in New Guinea and Western Samoa, where the European population is small, and in Nauru, where it is negligible. For example, Administrator Wisdom of New Guinea was disliked by planters, traders, and miners because of his devotion to native interests. In Western Samoa, Administrator Richardson's difficulties with the *Mau* were caused by his overzealous efforts on behalf of the natives, whose hostility to the administration was aroused largely by aggrieved half-castes. The Permanent Mandates Commission, before whom Administrator Richardson appeared, criticized him for lack of psychological insight and for over-confidence in people.[7]

In South-West Africa, the only Dominion mandate suitable for extensive European colonization, there is a strong European minority in whose interest the administrator has, upon occasion, taken severe punitive measures against the natives. After the Bondelzwart rebellion of 1922, a majority of the Permanent Mandates Commission censured Administrator Hofmeyr for conditions causing the rebellion and for leading the suppression of the rebellion in person.[8]

To a large degree, the administrators of the Dominion mandates have fulfilled their duties to the satisfaction of the Permanent Mandates Commission; but, of course, the Commission is handicapped in forming judgments by the fact that most of its information about a mandated territory comes from the annual report written by the administrator or a minister of the mandatory government, from the accredited representative of the mandatory, or from petitions sent by the mandate inhabitants through the mandatory to the Commission. Even officials in a mandatory country admit a lack of unbiased information about a mandated territory.[9]

The administrator's advisory council, with its membership of appointed

[7] *Ibid.*, XXII, p. 58; XIII, pp. 229, 230.

[8] *Ibid.*, III, pp. 294, 295.

[9] Mr. Beasley, Australian minister in charge of Nauru in the Scullin government, stated, after this government resigned, that it was difficult to get unbiased information regarding conditions in Nauru. He mentioned particularly Administrator Newman's attempt, first to make Chief Detudamo head chief against the wishes of the other chiefs and, failing this, to depose all chiefs. Newman allowed only such information as he desired to reach Australia, and could dominate an investigator because the community was so small. Mr. C. W. C. Marr, minister in charge of Nauru in the Lyons government, announced in Parliament that Mr. Newman was not to be reappointed upon expiration of his five-year term in December, 1932. *Australian Parl. Debates*, pp. 2623–2625 (Nov. 22, 1932).

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official and non-official members, or occasionally of official members only, appears in some form in all of the Dominion mandates. In New Guinea, the council has been composed of appointed official European members, but the New Guinea Act of 1932 provides also for a non-official European member chosen by and from the non-official members of the legislative council authorized by the same act.[10] The South-West African advisory council consists of appointed and, since 1925, elected European members. In Nauru, there was formerly a composite European and native advisory council, but since 1927 there have been three separate entities with *ex-officio* or appointed members representing European, Chinese, and Nauruan interests. In Western Samoa, members of the native advisory body, or *Fono* of *Faipules*, were formerly appointed by the administrator to hold office at his pleasure, but this body was suspended from 1928 to 1931 because during the *Mau* disturbances a large number of the Samoans lost confidence in the *Faipules*, who stood by the administration. When the *Fono* was reconstituted in 1931, the administrator appointed as *Faipules* only those persons nominated for the position by the Samoans of the several districts.[11]

Two legislative bodies which have existed in the Dominion mandates for several years are the legislative council of Western Samoa, authorized by the Samoa Act of 1921, and the South-West African legislative assembly, authorized by the South-West African Constitution Act of 1925. Provision for a third legislative body, the New Guinea legislative council, is made in the New Guinea Act of 1932. In Western Samoa, the legislative council is composed of appointed official and elected non-official European members and, since 1929, of appointed Samoan members as well. Samoan membership in the legislative council was secured only after lengthy agitation on the part of the *Mau*, a discontented faction of half-castes and natives. Official members have always been in the majority in the legislative council of Western Samoa. In South-West Africa, the legislative assembly is composed of appointed and elected European members, but here the elected members are in the majority. The New Guinea legislative council will be composed of appointed European members, official and non-official, with the former in a majority.[12]

All these legislative bodies are legally in a position of great subordination to the mandatory governments, for not only is their field of legis-

[10] *Ibid.*, p. 2188 (Nov. 10, 1932).

[11] Members of the *Fono* of 1931 were appointed for one year only, so as to give those Samoans who did not at once coöperate with the administration another chance to nominate *Faipules*. In 1932, a new *Fono* was constituted by the same procedure as in 1931, except that the *Faipules* was appointed for three years. *Report on Administration of Western Samoa*, 1930–31, pp. 3, 4; 1931–32, pp. 2, 3.

[12] *Australian Parl. Debates*, pp. 2188, 2189 (Nov. 10, 1932).

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lative power restricted, but their ordinances may be disallowed or vetoed by the administrators or mandatory governments, who may also, in some instances, legislate on matters within the competence of these subordinate legislatures. In practice, however, the legislative assembly of South-West Africa has exercised sufficient financial autonomy to arouse the fears of the Permanent Mandates Commission that the responsibility of the mandatory is being impaired.[13] Legislation passed by the South-West African assembly and the Samoan legislative council is predominantly economic in character, as is legislation, in general, for each Dominion mandate, though for Western Samoa repressive political measures have also been numerous.

There is more uniformity among Dominion mandates with regard to judicial organization than with regard to other branches of government. Systems of law in force are similar, except in the case of South-West Africa, where Roman Dutch law is substituted for British common law and statutes. In each mandate, there is a central or high court with broad civil and criminal jurisdiction, from which there is an appeal to a high court of the mandatory, except in the case of Nauru. In South-West Africa, which has the most complicated judicial structure, there are other superior courts; while in Western Samoa, by contrast, the whole judicial system is centralized in the high court. All the mandates, except Western Samoa, have separate inferior courts of limited civil and criminal jurisdiction, with appeal to the high or central court of the territory. In New Guinea and South-West Africa, special courts for natives have been established in which native custom is recognized. In these territories and in Western Samoa, there are also certain administrative tribunals. Most persons convicted in courts of the Dominion mandates are natives, except in Nauru, where the Chinese indentured laborers are the most frequent offenders. Since the natives possess comparatively little property, civil offenses are far less common among them than criminal. In South-West Africa, which has the greatest number of European inhabitants, an appreciable minority of the convicts are Europeans.

Mau disturbances in Western Samoa prevented the judicial system there from functioning normally, especially in 1928 and 1929. Though there were many convictions for intimidation and breach of repressive ordinances, at the same time a large number of criminal offenders remained at large, because native police refused to execute warrants against members of the *Mau*. Since 1930, however, the authority of the courts has been maintained and the number of outstanding criminal cases gradually reduced. Cessation of *Mau* activities, to a great degree, caused a sharp decline in the number of convictions for violation of repressive

[13] Permanent Mandates Commission, *Minutes*, XX, pp. 57–59, 233.

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ordinances and for contempt of court in 1931–32, as compared with 1930–31.[14]

A survey of the police forces of the Dominion mandates reveals that the European staffs are small compared with the native staffs, except in South-West Africa, where there is still a sizable European staff despite severe retrenchments in 1931 and 1932.[15] In Western Samoa, the European force, originally much smaller than the native, was increased because of the *Mau* activities until in 1929–30 it exceeded the native force; but, though ten times larger than formerly, the European force was still relatively small. As a result of the economic depression and the decline in *Mau* activities, the European force was later decreased until, in 1931–32, it was again smaller than the native force.[16] During the turbulent years, 1928–29 and 1929–30, the New Zealand government granted a special subsidy to support the augmented European force in Western Samoa, but since that time the Samoan administration has supported its own police.[17] Though sometimes unable to handle a situation unassisted, the European police in the Dominion mandates seem to have been uniformly loyal to their administrations. Native police, as might be expected, have proved less reliable. The Samoan administration has encountered great difficulties in maintaining a loyal effective native force, while the New Guinea administration had to cope with a native police strike in Rabaul in 1929.

With respect to general administrative organization, Dominion mandates fall into two groups: Nauru and New Guinea each has a simple organization of seven departments, while Western Samoa and South-West Africa have a complicated organization of thirteen and seventeen departments, respectively. The New Guinea administrative organization has been criticized for over-centralization in the Ainsworth Public Service Report of 1924 and in the Australian Parliament, where charges were made that the government secretary in New Guinea dominated and interfered with other department heads. In 1932, however, a measure of decentralization was obtained through the transfer of the district services from the government secretary to the commissioner of native affairs.[18]

[14] *Report on Administration of Western Samoa*, 1929–30, p. 14; 1930–31, p. 14; 1931–32, p. 9.

[15] In 1930, the South-West African police force consisted of 274 Europeans and 214 natives. By 1932, the European force had been reduced by one third and the native by more than one half. *Report on Administration of South-West Africa*, 1930, p. 16; 1931, p. 12.

[16] Samoa Police: 1929–30, European 50, native 30; 1931–32, European 22, native 38. *Report on Administration of Western Samoa*, 1929–30, p. 19; 1931–32, p. 11.

[17] *Ibid.*, 1931–32, p. 18.

[18] *Australian Parl. Debates*, p. 4249 (Sept. 11, 1924); p. 1773 (Nov. 2, 1932).

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By contrast, centralization is obviously needed in Western Samoa[19] and South-West Africa, the size and population of which do not warrant the existence of so many departments.

Of greater importance than the organization of administrative departments is the organization and functioning of the public services of the Dominion mandates; for, however good the intentions of the mandatory government and administrator may be, successful administration is impossible without a trained and efficient staff of public servants. The tendency to unify the public services of the mandatory and mandated territory is one which should be noticed. Public services of Nauru and New Guinea are still separate from those of Australia, but the South-West African public service was amalgamated with that of South Africa in 1923; and, by a provision of the 1931 New Zealand Finance Act, the Samoan public service was put under the New Zealand public service commissioner's control.[20] Nearly all important posts in the public services of the mandates are held by Europeans, and in New Guinea by British subjects only. Natives have been admitted to minor posts, except in New Guinea, and to one or two major posts in Nauru.[21] Public services of all Dominion mandates are supplemented by loan or transfer of officials from the Dominion public services, a practice necessary in the tropical territories, but one which, if carried too far, causes a lack of permanence and continuity in the services of the mandates.

For the most part, the Dominions, even in prosperous years, were unable to provide a sufficient number of adequately trained public service officials for their mandates. Moreover, during the financial depression, retrenchments have made the situation more difficult. Lack of adequate financial support, except in Nauru, is a fundamental difficulty which will doubtless continue for some time. Though standards of efficiency in the public services of the Dominion mandates have been raised since the inception of the mandate system, there has been no thorough system of training European officials for their work in the mandated territories, except in New Guinea, where a cadet system has been inaugurated. In consequence, most officials engaged in native administration have had

[19] Prior to retrenchments caused by the depression, there were, in 1929, fifteen departments in Western Samoa. *Report on Administration of Western Samoa*, 1929–30, p. 24; 1931–32, p. 14.

[20] The unification of the Samoan public service with that of New Zealand was in accordance with the recommendations of the Verschaffelt Park Berendsen Public Service Report of 1928. Sir Thomas Wilford informed the Permanent Mandates Commission, on November 5, 1931, that budgetary conditions made it impossible to establish a special civil service for Western Samoa. *Ibid.*, 1931–32, p. 3; Permanent Mandates Commission, *Minutes*, XXI, p. 147.

[21] In 1929, a Nauruan was appointed head of the new department of Nauruan Affairs. *Report on Administration of Nauru*, 1929, p. 7.

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no special preparation, a deficiency which was revealed particularly in Western Samoa during the prolonged *Mau* disturbances. The Permanent Mandates Commission has been greatly concerned about the rapid turnover among officials, the shortage of certain types of officials, especially medical and agricultural, and the general shortage of officials in certain outlying regions of the territories.

Though primary responsibility for administration in matters relating to the natives in the Dominion mandates rests upon the administrators and other European officials, some degree of responsibility has been delegated to the natives themselves. In New Guinea, where natives are excluded from the public service and tribal organization has been disturbed to a considerable degree, little responsibility for native administration has been entrusted to the natives. Likewise, in the Police Zone of South-West Africa, where the influx of European settlers has destroyed native tribal organization and brought about a system of native reserves, native administration is largely in the hands of Europeans, though natives are admitted to minor posts in the public service. Natives have shared responsibility for administration most successfully in the regions of South-West Africa north of the Police Zone, where tribal organization exists undisturbed by Europeans, and in Nauru, where conditions are similarly favorable and, in addition, natives fill several important positions, as well as all minor positions in the public service. Despite a special attempt to train natives for public service positions in Western Samoa, the elaborate system of native administration, in which natives were allowed to participate to a great degree, broke down under the strain of the *Mau* agitation instigated largely by half-caste traders for their own advantage. Since the *Mau* agitation has recently become quiescent, some of the suspended native officials have resumed their duties. Reorganization of the *Fono* of *Faipules* in 1931 has already been mentioned.

A study of the public finances of the Dominion mandates shows that Nauru is the only territory of the four which has not received assistance, in the form either of subsidy or of loan, from the mandatory. Indirect taxes, especially customs duties and mining taxes, are most important as internal sources of revenue for the territories. Revenue from taxes levied upon natives is comparatively inconsequential in amount, but such taxation has been a cause of grievance, as we shall see, in Western Samoa and, to some extent, in South-West Africa.

Nauru's fortunate independent financial position is largely maintained by revenue derived from the British Phosphate Commission in the form of a royalty on phosphate exported and an annual police contribution of £1,000. Customs duties, including an export duty on copra, are another important source of revenue, but materials and appliances used by the British Phosphate Commission in extracting phosphates are exempt from

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duty. There is a native capitation tax of fifteen shillings, the small proceeds of which, since 1928, have been used solely for the benefit of the Nauruans. But even prosperous Nauru has not been entirely unaffected by world financial conditions. In 1931, due to the depression and stormy weather, there was a decrease in the export of phosphate, which resulted in a small deficit in the territory's budget. In the following year, however, a large increase in the export of phosphate caused an increase in the territorial revenue more than sufficient to balance the budget.[22]

New Guinea, though not self-supporting, has hardly been a serious drain on Australia. In addition to loans,[22] the Australian government has granted annually a mail subsidy of £44,000 and, until 1930, the sum of £10,000 for native welfare.[23] New Guinea's chief sources of revenue are customs duties, including an export duty on copra.[24] In 1932, there was a marked increase in royalties from gold mining, an activity which has benefitted the territory financially during the depression. Natives, excluding indentured laborers, may be subject to a head tax not exceeding ten shillings per annum. This tax, which is not always levied at the maximum rate, constitutes less than ten per cent of the total revenue. Employers of native indentured laborers are required to pay an education tax of one shilling per month per laborer into the native education trust fund.

Western Samoa, though only a small territory, has been quite an expense to New Zealand, which has recently attempted to make the mandate self-supporting. The Samoan public debt exceeds that of the much larger territory of New Guinea.[24a] Furthermore, New Zealand has subsidized Western Samoa liberally, to the extent of £20,000 for native welfare annually, until the year 1931–32, when the depression made retrenchments necessary. *Mau* disturbances in Western Samoa have entailed additional expenditure by New Zealand for marines landed from cruisers to restore order in the territory, and for the upkeep of special military police in Western Samoa during 1928–29 and the year following. As in New Guinea, customs duties, including export taxes on copra and cocoa, are vital sources of revenue in Western Samoa.[25] A second kind of indirect taxation

[22] Permanent Mandates Commission, *Minutes*, XXII, p. 46; *Report on Administration of Nauru*, 1932, pp. 9, 13.

[23] In 1930, the grant for native welfare was cut to £5,000, and since then it has been omitted. *Report on Administration of New Guinea*, 1930–31, p. 60.

[24] Customs duties were increased in 1925–26 to compensate for the abolition of the business and income taxes on Europeans. The export tax on copra, though reduced during the prosperous year of 1928, became burdensome to the planters during the depression, as the price of copra fell. In 1931, they demanded the removal of this duty. *Ibid.*, 1927–28, p. 42; *Australian Parl. Debates*, p. 4604 (July 29, 1931).

[24a] See note 22 *supra*.

[25] These duties were raised in 1931–32 as part of the attempt to make the territory self-supporting.

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is the business tax, while the salary tax on Europeans is a direct tax not found in other Dominion mandates. Rather heavy direct taxation of the natives[26] to cover expenses of medical treatment was one of the native grievances leading to the *Mau* disturbances. In 1929, as a consequence of the *Mau*'s passive resistance, direct taxation of the natives was abolished and the copra export tax increased, as a compensatory measure.

During the early period of mandatory administration, South-West Africa was really self-supporting, as it received no loans or subsidies from the mandatory. Since 1926–27, however, when the borrowing from South Africa began, South-West Africa's public debt has mounted rapidly, especially in the depression, until the total of £1,827,715, in 1932, far exceeded that of any other Dominion mandate. In 1930–31 and the following year, South-West Africa had to borrow from South Africa in order to meet its budget deficit, a situation which aroused the concern of the Permanent Mandates Commission.[27] The South African government has granted no subsidies to the territory for native welfare, but it has granted £500,000 for the settlement of the Angola Boers in the territory. Mining revenues, especially the diamond tax, were formerly the most important in South-West Africa, but since 1926–27, customs and excise duties have taken first place. A dog tax levied on all inhabitants, but proving most burdensome to the natives, was one of the grievances leading to the Bondelzwart rebellion of 1922.[28] Natives on reserves pay grazing fees per head of stock, which are allocated to the native reserve funds.

All of the Dominion mandatories are carrying on welfare programs for the inhabitants of their mandates, but with varying degrees of success, depending upon differences in the size and wealth of the territory, the amount of the financial subsidy (if any) granted by the mandatory, the ability of the public servants, and the attitude of the natives. Since Nauru is a small and wealthy territory with a native population of com-

[26] £2 per *matai*, or head of a family, and £1,16s. per *taulealea*, or young man, in 1926.

[27] Prior to the depression, loans were made principally for settlement of Europeans and for water-boring. In 1930–31, the budget deficit covered by loan was £120,000 and in 1931–32, £242,000. At a meeting of the Permanent Mandates Commission in June, 1933, Professor Rappard noted that a large part of the advances made by South Africa to South-West Africa had to be used to meet interest charges on the territory's debt. Unless the situation should improve, he feared that the territory would soon be bankrupt. Mr. te Water, accredited representative of South Africa, replied that Mr. Rappard had not exaggerated the situation. Permanent Mandates Commission, *Minutes*, XXII, pp. 31, 369; XXIII, pp. 85, 86, 192; *Report on Administration of South-West Africa*, 1931, p. 14; 1932, pp. 13–15. See note 22 *supra*.

[28] The administration's custom of making the natives pay for branding irons retained by the administration has been another native grievance.

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paratively high mental caliber, the health, educational, and recreational program there has been very completely developed without direct subsidy from the mandatory. For the large territory of New Guinea, the Australian government has undertaken a program, less ambitious, but still adequate, considering the size of the territory and the low grade of native mentality. Despite an annual subsidy of £10,000 from the Australian government for native welfare until the year 1930–31,[29] fulfillment of the welfare program has, unfortunately, been hampered by lack of funds and of a sufficient number of trained officials. If, however, the well organized cadet system of training is maintained, the supply of expert public servants should increase. Despite financial difficulties, which are likely to exist during the depression, Major Casey asserted in the Australian Parliament, on November 2, 1932, that expenditure for health in New Guinea was much greater than in any foreign or even British colony.[30]

The New Zealand government was at first apparently successful in its attempt to carry on a comprehensive Samoan welfare program, financed in part by a subsidy of £20,000 given annually until 1931–32. In 1926, however, the Samoans, a fairly intelligent but unstable people, were so antagonized by the administration's zealous efficiency, especially in its health program, that, at the instigation of unscrupulous half-castes, a large number of them refused to coöperate with the administration, and even actively resisted it until 1930. The administration found it necessary to alter some features of its program and abandon others before it could secure even a moderate amount of coöperation from the recalcitrant members of the *Mau*. Welfare expenditure in Samoa decreased a little in 1931–32, because of the depression, but, fortunately, the Rockefeller Foundation agreed, in 1932, to help support a medical campaign against yaws.[31]

In contrast to the New Zealand government, the South African government has not erred in proceeding too rapidly with its welfare program in South-West Africa, but has rather been criticized by the Permanent Mandates Commission for shortage of medical staff and inadequate educational facilities for the natives. Though the government granted and loaned large sums of money for European settlement in the territory prior

[29] The grant was cut to £5,000 in 1930–31 and omitted the following year. There was a decrease in expenditure for health, education, and agriculture in 1930–31, as compared with the previous year, and a further decrease in 1931–32. *Report on Administration of New Guinea*, 1930–31, pp. 28, 32, 78, 82; 1931–32, pp. 30, 33, 81.

[30] *Australian Parl. Debates*, p. 1774 (Nov. 2, 1932). In 1931–32, £59,365 were expended in New Guinea for health. *Report on Administration of New Guinea*, 1931–32, p. 33.

[31] *Report on Administration of Western Samoa*, 1931–32, pp. 19, 25. Permanent Mandates Commission, *Minutes*, XXII, p. 78.

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to the depression, it has never subsidized the native welfare program, which also lacks the hearty support of the European inhabitants of the territory. Despite these handicaps, however, the administration has made appreciable progress, during the last few years, in its health and educational work for the very backward and often uncoöperative natives. South-West Africa has been so severely affected by the depression that a decrease in welfare expenditure was inevitable. It is noteworthy that expenditure for native education actually increased in 1930–31 and the year following. But as the financial situation in the territory became more acute, appropriations for native welfare, including education, were reduced in 1932–33.[32]

With regard to labor conditions, indentured labor regulated by the administration exists in every Dominion mandate except Western Samoa. In Nauru, Chinese indentured laborers are employed by the British Phosphate Commission, while the Nauruans live in comparative comfort upon the income from phosphate royalties. In Western Samoa, the Chinese laborers on the plantations are no longer indentured, though they are still under the supervision of the administration, while the Samoans seldom work for wages. The labor situation is apparently more satisfactory in these territories than in New Guinea and South-West Africa, where native indentured labor is employed in the mines and on the plantations or farms. Though indentured natives constitute but a small fraction of the total population in each of the two territories, there have been abuses of the system which the administrations have tried to remedy under the supervision of the Permanent Mandates Commission. Methods of recruiting have been reformed, and the extremely high mortality among laborers in the South-West African mines has also been reduced, through the collaboration of the mandatory and the Commission. Contraction of economic activities during the depression caused a decline in the number of indentured laborers, particularly in South-West Africa, where mining operations were virtually suspended in 1932.[33]

The relationship between the Dominion mandatories and the supervisory organs of the League of Nations, namely, the Permanent Mandates Commission, Council, and Assembly, has, in general, been one of coöperation, though for a time there was misunderstanding and friction between South Africa and the Permanent Mandates Commission. The annual reports of the mandatories to the Council have gradually im-

[32] In 1931–32, £14,604 was spent on native education, as compared with £13,123 the previous year. Total educational expenditure in 1931–32 was £132,973. *Report on Administration of South-West Africa*, 1931, pp. 12–21; 1932, pp. 13–15.

[33] *Report on Administration of Nauru*, 1931, p. 7; *Report on Administration of New Guinea*, 1930–31, p. 23; *Report on Administration of South-West Africa*, 1931, pp. 67, 68; 1932, pp. 30, 31.

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proved as the mandatories have adopted suggestions made by the Commission. Relations between the Commission and the accredited representatives of the mandatories who are present at the Commission's examination of the annual reports have, for the most part, been frank and cordial. On many occasions, the mandatories have sent important officials from the mandated territories as accredited representatives or as advisers to those representatives, thus enabling the Commission to secure much valuable information in addition to that contained in the reports. During the depression, the mandatories have discontinued this practice, doubtless for the sake of economy.[34]

As the authoritative supervisory organ of the mandate system, the Council has, almost without exception, accepted the advice of the Permanent Mandates Commission, and has forwarded the Commission's observations to the mandatories. Requests of the Commission for information, forwarded through the Council, have been answered by the mandatories, often in detailed annexes to the annual reports. In the case of South-West Africa, however, there has been considerable delay in forwarding information or opinions of the South African government desired by the Commission. The subject of mandates is considered annually by the Assembly, which, though giving audience to opinions and grievances of the mandatories, tends to support the work of the Commission and Council. Through supervision by these organs of the League, high standards of mandatory administration have been established and in large measure maintained.

As for the mandatories' conception of the mandate system, the Dominion mandatories expect to administer their mandates indefinitely (except in the case of Nauru, which might be transferred to Great Britain or New Zealand), but nowhere except in South Africa have official claims of annexation and sovereignty been asserted. The South African government finally acquiesced in a report of the Council stating that the term "sovereignty" is not suitable to define the relationship between mandatory and mandated territory. There is a good deal of discussion among the white population of South Africa and South-West Africa with regard to incorporation of the mandated territory in the Union of South Africa, but feeling between Germans and South Africans in the territory has prevented any decisive step in that direction. Members of the Permanent Mandates Commission, concerned for the welfare of the large native majority in South-West Africa, inquired of Mr. te Water, South African representative, in 1932, why a change in the status of the territory was

[34] At the 1932 session of the Permanent Mandates Commission, Mr. te Water, South African representative, expressed the regrets of his government that the depression prevented the sending of a South-West African official to the Commission that year. Permanent Mandates Commission, *Minutes*, XXII, p. 20.

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sought. Mr. te Water quite frankly replied that one important factor in the case was the uncertainty regarding the political future of the territory, which caused a scarcity of capital for investment.[35]

Critics may say that there is little difference in fact between indefinite administration and annexation, but so long as supervision of the mandate system by the League and the resulting publicity continue, the mandatories will doubtless maintain much higher standards of administration than the minimum standards tolerated in colonial possessions by world public opinion. Thus the mandate system is clearly advantageous for the inhabitants of mandated territories, especially the native inhabitants, even though not all of the high-sounding phrases of Article 22 of the Covenant of the League are completely fulfilled.

LUCRETIA L. ILSLEY.

Newburyport, Mass.

[35] *Ibid.*, XXII, pp. 23–25.

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

By vote of the Executive Council, the thirtieth annual meeting of the American Political Science Association will be held in Chicago on December 27–29. The American Economic Association and numerous other social science organizations will be in session in the same city during the period. The committee on program for the meeting of the Political Science Association consists of Walter R. Sharp (chairman), University of Wisconsin; Louise Overacker, Wellesley College; Harold D. Lasswell, University of Chicago; Lent D. Upson, Detroit Bureau of Municipal Research; and Amry Vandenbosch, University of Kentucky. Suggestions may be sent to any of these persons.

Professor Leonard D. White, of the University of Chicago, and a member of the board of editors of this REVIEW, has been appointed a member of the United States Civil Service Commission.

In recognition of his thirty years of service at the University of Illinois, Professor James W. Garner was tendered a dinner by his colleagues and friends on the evening of April 13.

Professor Roland S. Morris, of the University of Pennsylvania, and former United States ambassador to Japan, announced in February that he would be a candidate for the Democratic nomination for United States senator.

At the annual Commemoration Day exercises held at the Johns Hopkins University on February 22, a portrait of Westel Woodbury Willoughby, emeritus professor of political science, was presented to the University. The presentation was made by Professor James Hart.

Professor Morris B. Lambie, of the University of Minnesota, is acting as coördinator of public relief work, federal and state, for Minnesota. He has been relieved temporarily of a portion of his teaching duties, which are being cared for by Mr. Asher N. Christensen.

During the absence of Professor Russell Forbes while serving as commissioner of purchase of New York City, Professor Roy V. Peel is acting as chairman of the Division of Research in Public Administration at New York University.

At the mid-year convocation of the University of Pennsylvania for the awarding of degrees, the address was delivered by Dr. John Dickinson, professor of law at the University, and at present occupying the post of

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assistant secretary of commerce at Washington. Dr. Dickinson also delivered an address, on "The Ordeal of Liberalism," at the Commemoration Day exercises of the Johns Hopkins University on February 22.

Professor A. R. Hatton, of Northwestern University, is a member of a sub-committee of the executive committee of the Chicago Recovery Administration, dealing with the reorganization of the local government of Chicago.

Under the auspices of the division of humanities of the California Institute of Technology, Dr. Charles A. Beard delivered four lectures at Pasadena during the period February 6–16. The general subject was "What are National Interests?"

Mr. Carl H. Chatters, executive director of the Municipal Finance Officers Association, has been appointed a member of the board of review of the Federal Emergency Administration of Public Works.

Professor Clarence A. Berdahl, of the University of Illinois, will give courses in international law and organization at Columbia University during the coming summer session.

Professor Walter R. Sharp, of the University of Wisconsin, will give courses on public administration at Harvard University during the first half of the next academic year.

Dr. Joseph D. McGoldrick, professor of municipal government at Columbia University, is occupying the post of deputy comptroller of New York City.

The Frank Hoyt Wood lecture in political science for 1933–34 at Hamilton College was delivered on February 14 by Professor Walton H. Hamilton, of the Yale Law School, on the subject of "The Supreme Court and Its Place in the Economic Order."

Dr. Ernest B. Price, on leave of absence from the Johns Hopkins University, has accepted a temporary appointment with the Institute for Government Research. He is making a preliminary study of regional administrative areas.

Mr. Charlton F. Chute, of the University of Chicago, has been appointed finance examiner in the Public Works Administration.

Mr. Lewis Meriam, of the Institute for Government Research, has been acting for some months as manager of the Washington office of the Public Administration Clearing House.

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Mr. Charles S. Ascher, assistant director of the Public Administration Clearing House, has been elected director of the National Association of Housing Officials, with headquarters at Chicago.

Professor S. E. Leland, of the University of Chicago, and Mr. Paul V. Betters, secretary of the American Municipal Association, served as members of a special committee appointed by the Secretary of the Treasury to advise on a federal bankruptcy act.

Dr. Roger V. Shumate, who received his degree at the University of Minnesota last July, has been appointed instructor in political science at the University of Pittsburgh.

Dr. Max R. White, who recently received his degree at the University of Chicago, is assisting Professor Charles E. Merriam in his studies of regional planning.

Dr. Clarence E. Ridley and Mr. Orin F. Nolting, of the City Managers Association, have prepared a brochure on the city managership as a profession. It will be published by the University of Chicago Press.

Dr. J. Donald Kingsley, who received his degree at Syracuse University last year, has become assistant professor of political science at Antioch College and is engaged upon a study of county reorganization in Ohio.

The department of political science at the University of Minnesota is planning an International Affairs Week for the period July 30 to August 3. Lectures and round tables will be devoted primarily to the attitude of the Northwest toward international affairs and to problems involved in the teaching of international relations in the secondary schools.

Two research projects recently brought to completion under the auspices of the Institute for Government Research of the Brookings Institution are: Election Administration in the United States, by Joseph P. Harris, of the University of Washington; and The Veterans' Administration, by Gustavus A. Weber and Laurence F. Schmeckebier, of the Institute staff.

The spring meeting of the Academy of Political Science (New York City), on March 21, was devoted to the general subject of money and credit in the recovery program.

Hon. Frederick M. Davenport, professor of law and political science at Hamilton College for sixteen years and more recently a member of Congress from New York, is visiting professor of political science at Wesleyan University, where he is offering two courses on comparative government.

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Professor Kenneth O. Warner, of the University of Arkansas, has been chosen chairman of the Arkansas People's Conference on Government, which will devote its activities during 1934 chiefly to promoting the modernizing of county government. The first definite objective is to curb the fee system of paying county officials and secure the adoption of a model salary act.

During the first term of the Academy of International Law at The Hague, July 2–28, Professor John B. Whitton, of Princeton University, will lecture on the rule *pacta sunt servanda*, and during the second term, July 30 to August 24, Dr. Leo S. Rowe, director of the Pan American Union, on the seventh Pan American Conference. The program of each term lists, as usual, seven or eight European lecturers.

During the second semester of the current year, Professor Hermann Kantorowicz, formerly of the University of Freiburg and now a member of the Graduate Faculty of Political and Social Science organized under the New School for Social Research, is lecturing at the College of the City of New York on the subject of his primary interest, the philosophy of law.

The Iowa Political Science Association will hold its annual convention at Grinnell College on May 4 and 5. Tax revision in Iowa, certain problems of local government, the content of elementary political science courses, and national versus international economy are topics listed on the program. The officers of the Association are: J. W. Gannaway, of Grinnell College, president; Ivan L. Pollock, of the State University of Iowa, vice-president; and Erma B. Plaehn, of the University High School, secretary-treasurer.

The seventh annual session of the Institute of Citizenship, held at Emory University on February 12–16, was devoted largely to discussion of the New Deal, in relation to state and local government, industry, banking, the consumer, and other activities and interests. Professor Cullen B. Gosnell, of Emory, served as director.

A National Committee on Municipal Accounting, organized at Chicago in January, represents the first attempt on a national scale to establish accepted principles of municipal accounting and actively to promote their use. Ten members represent as many different national organizations interested in accounting practice. As secretary of the committee, Mr. Carl H. Chatters, director of the Municipal Finance Officers' Association, has set up a full-time staff to carry on the committee's work.

As an outlet primarily for the scholarly work of the Graduate Faculty of Political and Social Science lately established under its auspices, the New School for Social Research has established a quarterly journal bear-

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ing the name *Social Research.* The initial issue, appearing in February, was devoted entirely to leading articles by members of the group indicated. It is announced, however, that future issues will contain notes and book reviews, and will draw upon a wider range of scholarship.

Beginning with the number for March, 1934, *Pacific Affairs,* a publication of the Pacific Council of the Institute of Pacific Relations, will be issued from New York instead of from Honolulu, and under the editorship of Mr. Owen Lattimore, with the aid of an international corps of editorial correspondents. It is announced that the magazine will hereafter be devoted more particularly to the "exploration of derivations and potentialities of those situations in the Pacific area which give rise to international conflict." The subscription rate will continue to be $2.00 a year, and the editorial and business offices will be located at 129 E. 52nd St., New York City.

Financed through a grant of the Rockefeller Foundation and appointed by the Social Science Research Council with the endorsement of President Roosevelt, a recently created Commission of Inquiry on National Policy in International Economic Relations announces its purposes as being (1) to examine the situations in the United States in which practices and principles of nationalism and internationalism bear on national policy in international economic relations; (2) to canvass the directions and objectives of American policy, and their results; and (3) to make a report presenting an analysis of the problems involved, together with relevant recommendations. The commission is headed by President Robert M. Hutchins, of the University of Chicago, with Professor Alvin H. Hansen, of the University of Minnesota, as secretary.

With more than a dozen western or national organizations participating, a Western Conference on Government held at the University of California on March 28–30 was expected to be the most important meeting of its kind ever arranged for west of the Mississippi. Among topics to be dealt with by over one hundred speakers in general and group meetings were problems of metropolitan government and organization, legislative drafting and research, municipal finance, taxation, public personnel, the relationships between federal, state, and local governments, local government aspects of the New Deal, unemployment relief, public aid to housing, and special assessments. The chairman of the local arrangements committee was Professor Samuel C. May, director of the Bureau of Public Administration at California.

At New York University, the Division of Research in Public Administration has completed a plan for charter revision in New York City. In general, the plan calls for administrative centralization and integration

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through a unicameral legislature elected by the method of proportional representation, and for a thorough overhauling of the revenue and personnel services and the courts. Practically all members of the political science faculty participated in the project, with Mr. John Bauer, of the American Public Utilities Bureau, acting as consultant. The plan has been submitted to Mayor LaGuardia, and a limited number of copies are available for distribution.

The program of broadcasts from mid-April in the current You and Your Government series on "Reviving Local Government" is as follows:[1]

April 17. *From the Heart of the Depression*
Mayor Frank Couzens, Detroit
Arthur J. Lacy, Attorney
Arthur W. Bromage, University of Michigan

April 24. *Local Government and the New Deal*
Dr. William T. Foster, Consumers Advisory Board
Harold D. Smith, President, American Municipal Association

May 1. *Suburban Troubles*
Walter R. Darby, State Auditor, New Jersey
E. F. Dunstan, Chairman, Municipal Securities Committee, Investment Bankers Association of America
Arnold Frye, Attorney, Hawkins, Delafield, and Longfellow

May 8. *Chicago Over the Hump*
John O. Rees, Secretary, Committee on Public Expenditures
Robert B. Upham, City Comptroller

May 15. *Schools for Municipal Officials*
Mayor J. Boyd Thacher, Albany, N. Y.
Albert H. Hall, Director, Bureau of Training, New York Conference of Mayors
Morton L. Wallerstein, Director, Virginia League of Municipalities

May 22. *News From the South*
Mayor J. Fulmer Bright, Richmond, Va.
Hon. William B. Harrison, Former Mayor of Louisville, Ky.

May 29. *The National Administration and Local Reorganization*
George F. Milton, President and Editor, *The Chattanooga News*

[1] The broadcasts take place over a nation-wide network of the National Broadcasting Company every Tuesday evening at 7:15 Eastern Standard Time (beginning May 1, Eastern Daylight Saving Time).

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Arnold B. Hall, Director, Institute for Government Research, Brookings Institution

June 5. *The Schools in Local Revival*
George F. Zook, United States Commissioner of Education
C. R. Mann, Director, American Council on Education

June 12. *The Voter and Local Revival*
Miss Katharine Ludington, Chairman Finance Committee, National League of Women Voters
Frank R. Kent, Vice-President, *The Baltimore Sun*

June 19. *What Are the Prospects?*
Thomas H. Reed, Chairman, Committee on Citizens' Councils for Constructive Economy
Frank H. Morse, Lehman Bros., New York City
Howard P. Jones, Secretary, National Municipal League

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The Menace of Fascism. By JOHN STRACHEY. (New York: Covici Friede. 1933. Pp. 272.)

The author of this interesting, but unconvincing, book is himself convinced that an attempt by the capitalist class to abolish the democratic form of government and to establish a fascist dictatorship is inevitable everywhere. "America," he writes, "though she may well have several phases to pass through in the meanwhile, will not be exempt from this phenomenon." In another place he is even more explicit. "The unfolding of the crisis in American economy," he declares, "will inevitably give birth to a form of fascism."

This prediction gains significance from the author's definition of fascism. Briefly, it is the "movement for the preservation of capitalism by violence and terror." The preservation of the private ownership of the means of production, and nothing else, he insists, is the real purpose of fascism. According to this view, moreover, there can be no such thing as a constitutional fascist movement. The resort to intimidation and violence is essential. Doubtless other definitions of fascism are possible. I would myself prefer a somewhat different definition. But the author's definition is practical as well as clear, and, since he uses it consistently throughout his book, there is little excuse for contentiousness on the matter. The main point is that fascism, in Mr. Strachey's opinion, will be the last defense of the capitalists and whatever will ensure its defeat will consequently ensure also the triumph of socialism.

Mr. Strachey's mode of proving these propositions leaves a good deal to be desired. Much of the proof, indeed, is omitted from this volume and must be sought in the author's previous work, *The Coming Struggle for Power.* His real concern here is to show that the proper method of combatting fascism is by determined attack upon the capitalist system at all costs, in bad times as well as in good. He blames the German Social Democrats for compromising with capitalism during the depression, thus paving the way for the destruction of their own "social-fascist" movement, and predicts that the British Labor party will suffer the same fate if it continues to pursue the same tactics. But he fails to show that the Labor party cannot defend the democratic political system against the menace of fascism without going to the opposite extreme along with the Communists. He seems indeed to ignore the possibility that the fascist menace, as he defines it, may be chiefly a menace to the Communists, in whose fate he is primarily concerned, and much less menacing to the more moderate movements which he dubs "social-fascist," like the British Labor party and the Roosevelt movement for a new deal. And so when he asserts that "the passionate hopes of the American people" in op-

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portunistic policies of social readjustment "are doomed to be in the end most bitterly disappointed," the non-Communist reader will note the assertion and await the event with much more equanimity than Mr. Strachey.

ARTHUR N. HOLCOMBE.

Harvard University.

English Political Thought in the Nineteenth Century. By CRANE BRINTON. (London: Ernest Benn Limited. 1933. Pp. vii, 311.)

For the accomplishment of a difficult task, the author of this book has adopted the "method of men." He rejects, on the one hand, the "method of ideas" as "offering less resistance to easy generalization," and on the other, the composite method appropriate only for a more complete history of nineteenth-century English political thought than he deems possible at such short range. The "method of men," moreover, "finds ideas in their natural source, in the living human being." But most particularly is this method pursued, we are led to believe, because the nineteenth century is, of all centuries, probably the most difficult to summarize. "The nineteenth century is almost perversely resistant to attempts to define it." It is a "warring ground of political doctrines," in which "no great simplifying categories are readily available," and in which "there seem to be as many ideas as men."

This characteristic of the century is well reflected in the book; for in spite of the grouping of the nineteen thinkers chosen under three headings—The Revolution of 1832, Chartism, and The Prosperous Victorians—the impression is that of nineteen separate studies, bearing little relation to each other. The inclusion of a number of less accustomed names reveals the political thought of the century in some of its less obvious implications. In the chapter on the Revolution of 1832, Mr. Brinton presents Bentham, Brougham, Owen, Cobbett, and Coleridge; in that on Chartism, Mill, Cobden, Kingsley, Disraeli, Newman, and Carlyle; while he has chosen as his Prosperous Victorians, Bagehot, Acton, T. H. Green, Spencer, Bradlaugh, Morris, Maine, and Kidd.

Though these studies are compact of information, and vivid through much quotation, their value lies not in new material presented, nor in illuminating comment, but rather in the fact that now for the first time the ideas of so many representatives of nineteenth-century English political thought are brought together into a single volume. We are not, moreover, left entirely without direction for the understanding of the century as a whole. The notion that "a new England was in the making," and the determination that "this new England should be a good one for Englishmen," which we are told in the Conclusion run through all English political thought in the nineteenth century, are made evident in the

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several systems here presented, however various their specific programs for reform. And as closely related to these concepts we are made aware of the familiar nineteenth-century emphasis on history and on progress.

The book is well documented, and has a useful bibliographical appendix so arranged as tentatively to suggest a history of English political thought in the nineteenth century according to the method of ideas. The broad outlines here sketched, as well as the few interpretative suggestions offered in the Conclusion, lead one to wish that more of comment, and of such critical comparison as for instance appears in the work of Barker and of Laski, might have been introduced along the way. Such a procedure would, without prejudicing the method adopted, or the essential diversity of subject-matter, have simplified and clarified the mass of material presented, and would thus have added proportionately to the interest and usefulness of the book.

ELLEN DEBORAH ELLIS.

Mount Holyoke College.

Government of the People. BY D. W. BROGAN. (New York: Harper and Brothers. 1933. Pp. 415.)

The appearance of this book is sufficiently important to deserve the attention of all students of the American constitutional system. Once more a British commentator has brought to the task a fresh and comprehensive view, not only of the machinery of our system, but of the living forces behind that machinery. One may be permitted, in the light of the work of Beard and other American scholars, to find Mr. Laski's praise, "the most illuminating treatise on American government since the late Lord Bryce's famous volumes," characteristically exuberant. But it is a solid, scholarly, and at times a brilliant, analysis of the development of the main factors in American politics.

Mr. Brogan has an Englishman's natural impatience with the clumsiness of our system, with its reliance on judicial review and on checks and balances, rather than upon direct political responsibility through the unified methods of British parliamentary government. But he tempers his impatience with the shortcomings of our system by a thorough knowledge of the historical factors which have produced them. In fact, it is on the plane of topically selected American political history that this volume deserves to be called really distinguished. Mr. Brogan has absorbed, as few Englishmen, even including Bryce, ever have done, a real feeling for our political history.

It is difficult to select from the subjects treated sections of special excellence, for the general level is very high. But few treatments of party and civil service in the United States, done in the same scope, can stand comparison with Mr. Brogan's. One can say that he is a little diffuse in

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his treatment of the presidency and less than adequate in his analysis of the nature of "pressure politics." But his emphasis on "the endemic sectionalism of American politics," and his lucid analysis of the spoils system, ought to make up for any weaknesses in the later chapters which deal more specifically with political machinery and problems.

The book had the misfortune to come out before the New Deal was under way. Much of Mr. Brogan's analysis might seem to have been swept away by that political freshet. But after all, the features of the system that he criticizes still remain to plague us. And the very tempo of the Rooseveltian reforms indicates a dangerous impatience with an unworkable system.

Mr. Brogan's specific proposals for reform seem either unnecessary or so minimal in their probable effects as to be inadequate. He proposes as his most radical remedy to have the President equipped with the power to call a referendum on a measure on which he is balked by Congress. For some curious reason, possibly because of the Model State Constitution, he makes the statement (p. 382): "This power has already raised the state governor from a figure-head to a public servant who can, if he will, do things worth doing."

In spite of occasional errors of this sort, forgiveable enough though surprising in the light of the extraordinary range and accuracy of Mr. Brogan's knowledge of American history, this is a work that ought to supplement, even if it does not supplant, the older texts on American government. There is more bold thinking and sound analysis of politics in it than in any of them that I know.

WILLIAM Y. ELLIOTT.

Harvard University.

City Management: The Cincinnati Experiment. BY CHARLES P. TAFT. (New York: Farrer & Rinehart. 1933. Pp. viii, 275.)

The author cautiously refers to his subject as an experiment, while the publishers call it the story of a permanent reform. In the light of our municipal experience, however, one gives a considerable hostage to fortune in predicting that any American city will stay permanently regenerated. Ten years ago, Cincinnati was one of the worst governed cities in the nation. There is no doubt about that. Today it has risen to a place among the best. Mr. Taft's story proves that the transformation was not wrought by magic, but is the outcome of persevering effort on the part of an undaunted body of citizens who combined sound ideals of government with a high degree of political sophistication.

The city of Cox and Hynicka was not the easiest place in the world for a reform movement to get fairly started. But Cincinnati had an extraordinary group of forceful reform personalities in its Bentleys, Season-

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goods, Tafts, Bettmans, and the rest. The author of the present volume was one of them, and although his attitude towards the city manager plan was rather skeptical at the outset, he presently developed the characteristic enthusiasm of a convert. His book might well be called a decade of autobiography, although he keeps his own activities modestly in the background. Some of Mr. Taft's friends suggested that the volume be left unpublished until after his death, but a multitude of readers will be glad that he did not hearken to such counsel. For here is material of the greatest value to all students of political science everywhere, an exciting story of a partisan machine outgeneraled and outfought all along the line.

The successive steps in the campaign have been narrated in many publications during the past decade, and most of those who follow the sinuosities of American municipal politics are quite familiar with them. Hence there is no need to give a summary of them here. Cincinnati has assuredly not lacked publicity concerning its New Deal during recent years. The question is whether there has possibly been too much of it. The general lesson of Mr. Taft's book, however, is that the smashing of a political machine requires an organization which is definite in its aims, sincere in its purposes, high-minded in its personnel, and steadily on the job year after year. It is only in this way that citizen interest can be aroused and kept vigilant.

What has been accomplished in Cincinnati is not merely a triumph of the city manager plan. This new scheme of municipal government gave the crusaders a rallying point and simplified their problem of putting efficiency into the city's administration, but no entrenched political machine could ever have been worsted in five successive elections by a plan alone. It was the momentum behind the plan that counted and has continued to achieve the results.

It is no disparagement of other fine qualities to say that the best feature of this book is its style. Vivid and cogent, with occasional flashes of good natured satire, it makes fine reading. The author ought to write more, for he has the gift of making a tale of local politics sound like an Arthurian adventure.

WILLIAM B. MUNRO.

California Institute of Technology.

The Roosevelt Revolution. By ERNEST K. LINDLEY. (New York: The Viking Press. 1933. Pp. viii, 328.)

Roosevelt and His America. By BERNARD FAŸ. (Boston: Little, Brown and Company. 1933. Pp. vii, 345.)

The Future Comes. By CHARLES A. BEARD AND GEORGE H. E. SMITH.) (New York: The Macmillan Company. 1933. Pp. xii, 178.)

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These three books discuss the events of the first few months of the Roosevelt Administration. That much they have in common. They are all alike also in being written in a spirit of adulation. No critical appraisement of the period is undertaken in any one of the books, save in certain respects in the book by Beard and Smith. To Lindley, the "extraordinary accomplishments in seven months" give obvious title to his volume, *The Roosevelt Revolution*. To Faÿ, Roosevelt is "the greatest living politician," a phrase that fairly indicates the tone of his entire book. To Beard and Smith, "the future comes" with Roosevelt.

Each of these books has a value of its own. The Lindley volume gives certain historical aspects of the New Deal as only a newspaper reporter could give them, and that a reporter close to the incidents and also close to the President himself. Mr. Lindley was assigned as reporter to news from Albany when Mr. Roosevelt was governor. He followed the intimate details of the presidential campaign. His account, therefore, has all the value of a book written on the spot and under the stress of the times. The author himself points out that "the book is tentative." But as such it serves a useful purpose in marshalling rapidly moving events into a unity of interpretation.

M. Faÿ writes as a Frenchman well informed on American affairs. "My first aim and hope in writing this book," he says, "was to remind Europeans that America is a force, not a formula." In this service he succeeds admirably. He writes of the continuity of American life and of the energy of its actions at critical hours. He first takes a look at America's ancestors: "those colonial, puritan, romantic traditional Americans, from which she is sprung and whose blood courses in her veins." He surveys the period of the three "wooden kings": Harding, Coolidge, and Hoover. He then discusses the "emancipated, liberal, slightly fantastic America" of the New Deal. The style is sprightly, and the author's interpretations quite worth while.

The Future Comes bears the hall-mark of a brilliant mind that is Charles A. Beard's and the hard work of George H. E. Smith. The authors present the salient facts of, and their interpretations of, the five broad fields into which the Recovery Program "seems to fall logically": government, industry and transportation, agriculture, finance, and relief. The book is full of facts, but made readable by a lucid style and a masterful interpretation.

To the reviewer, the Beard book presents the keenest analysis of the principles and ideals underlying the Recovery Program. The ideals are expressed in substance in the words of the President himself: Recovery "can be helped by national planning for and supervision of all forms of transportation and of communications and other utilities which have a definite public character." Again, "No business which depends for

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existence on paying less than living wages to its workers has any right to continue in this country . . . and by living wages I mean more than a bare subsistence level—I mean the wages of decent living." Yet again, a lasting prosperity cannot be attained "in a nation half boom and half broke. . . . The two great barriers to a normal prosperity have been low farm prices and the creeping paralysis of unemployment." Finally, "The secret of the N.R.A. is coöperation." The ideal to attain is "a common participation in the work of remedial measures, planned on the basis of a shared common life."

The present need is for a critical analysis of the extent to which the methods thus far adopted have and have not really helped in carrying out those ideals.

CLYDE L. KING.

University of Pennsylvania.

Treaties Defeated by the Senate. BY W. SHULL HOLT. (Baltimore: The Johns Hopkins Press. 1933. Pp. vi, 328.)

The Senate's rejection of the treaty of Versailles resulted in many heated denunciations of that body and of its rôle in the making of treaties. Old sores were brought once more to the attention of the American public and many reforms suggested with a view to depriving the Senate of its coördinate power in treaty-making. In the interim since those first heated criticisms, scholars have turned their attention to more careful studies of the treaty-making procedure. Students have time and again pointed to the fact that the Senate has sometimes rejected treaties for reasons that have nothing to do with the wisdom of the foreign policy presented in the treaty. Everyone knows that a good many of these extraneous reasons can be traced either to the struggle between the President and the Senate for the control of treaty-making or to the warfare of the President's political opponents who hope to secure some partisan advantage. For the first time, the author of the present volume has examined the circumstances attending the defeat of every treaty that failed to come into force because of Senate action or inaction. In each instance, the cause of defeat is carefully set forth and the political reasons for the defeat assessed against the persons, groups, and institutions involved.

To students of American government and history, and to students of foreign policy, this volume will prove invaluable for the material which it presents. The author's extensive search in biographical materials has added much of the flavor of domestic politics to the whole field of foreign relations. The concluding chapter on the treaty of Versailles is particularly informing—not because of new material introduced, but for the convincing summary of much evidence and a complete portrayal of events, persons, and groups which shaped the Senate's action on that

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agreement. The volume offers much material to those interested in the personal and political antagonisms which have been so common in the process which Woodrow Wilson called "treaty-marring."

Only two criticisms seem in order. The volume would have been more complete had the author drawn together all of his evidence into a concluding and summary chapter. Again, the author deals at length with those treaties which have been defeated because of partisan politics or because of the struggle between the President and the Senate for the control of treaty-making, but he dismisses with a word those treaties where neither of these forces accounts for the defeat. The title promises, and this reviewer would have appreciated greatly, a detailed discussion of those treaties defeated by the Senate because of their lack of merit or other non-partisan reasons. This omission leaves a suspicion that the author was looking for evil in the Senate—a suspicion, however, that is not otherwise justified.

All in all, this is the most scholarly study of defeated treaties yet published.

ROYDEN J. DANGERFIELD.

University of Oklahoma.

Toward Liquor Control. BY RAYMOND B. FOSDICK AND ALBERT L. SCOTT. (New York: Harper and Brothers. 1933. Pp. xvi, 220.)

Although the demand for repeal of the Eighteenth Amendment was both general and insistent, very little consideration was given to control of the liquor traffic until after repeal became effective. The shift of public sentiment was so rapid that neither the federal nor the state governments were prepared to meet the situation. In order to point the way to sound methods of control, Messrs. Fosdick and Scott have prepared an admirable analysis of the problem, and have indicated the objectives to be sought and the methods of regulation which may succeed.

The immediate objective is the elimination of the bootlegger, which can best be accomplished if the price of legal liquor is so reasonable that he cannot compete. As a matter of social policy, the wide consumption of so-called hard liquor should be discouraged, but the desperate need of the national, state, and local governments for revenue will necessitate high taxes and increased cost to the consumer. To obviate this difficulty, a cogent argument is made for a high income or profits tax levied on the manufacturer, under which it would be possible to combine a low retail price with a large revenue. The abolition of the private profit motive is likewise essential, and the authors believe that the various forms of licensing have proved unsatisfactory. A state alcohol authority is recommended, with broad powers over prices and conditions of sale. With reference to unified control and to taxation of the liquor industry, American federalism pre-

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sents numerous difficulties. It is advocated that the manufacture of alcoholic beverages be taxed exclusively by the federal government in order to provide for uniformity and free competition, while those states not creating a control authority should tax liquor-sellers by low licenses and by high profits taxes.

This discriminating study is impartial and broadly tolerant. Six useful appendices, including an adequate bibliography, add materially to its value. The practical recommendations deserve the serious consideration of legislators and of others who, knowing well the old evils, hope that the new order will inaugurate a more effective social control.

THOMAS S. BARCLAY.

Stanford University.

Letters of Grover Cleveland, 1850–1908. SELECTED AND EDITED BY ALLAN NEVINS. (Boston and New York: Houghton Mifflin Company. 1933. Pp. xix, 640.)

This book should serve as a valuable companion and supplementary volume of Professor Nevins' prize-winning biography of Cleveland. The *Letters* cover the period from Cleveland's boyhood to March 24, 1908, three months before his death. As Professor Nevins himself has remarked, "the fullest commentary on these letters is provided by the author's recent book, *Grover Cleveland; A Study in Courage*" (p. vii).

Cleveland's honest independence stands out as his most marked characteristic. He was always, as he proclaimed himself, "an absolutely free man" (p. 16), and again and again asserted his principle that "personal advancement of man is nothing; the triumph of the principles we advocate is everything" (p. 294). So, too, the religious element in Cleveland was deep and strong, and in it he found steadfast support for what he believed to be right. Writing to his close friend E. C. Benedict, he proclaimed his belief in "a high and unseen Power that guides and sustains the weak efforts of man," and added: "I would be afraid to allow a bad, low motive to find lodgment in my mind, for I know I should then stumble and go astray" (p. 381).

Cleveland characterized himself as "by nature an undismayed and persistent fighter" (p. 439). His letters disclose the fact that he was frequently stirred to anger by actions which he regarded as ignoble, or by attempts to use public office for personal or private gain. At the same time, he resented charges that he lacked in appreciation of friendship and did not recognize sufficiently what others did for him. He declared that "no one is more delighted than I when friendship and public duty travel in the same way" (p. 465).

Friendships he did have, and the genial human side of Cleveland is best illustrated in the many letters to his friends regarding family affairs

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or fishing. Deep affection for those dear to him and a boyish humor for his intimate friends are almost as characteristic of Cleveland as his sturdy integrity.

So fruitful of discussion are these letters and so limited the space for comment that this reviewer rests his case on a story which Cleveland related to Benedict: ". . . Concerning . . . political affairs, I feel like the farmer who started at the bottom of a hill with a wagon-load of corn and discovered at the hilltop that every grain of his load had slid out under the tail-board. Though of a profane temperament, he stood mutely surveying his disaster until to a passing neighbor, who asked him why he didn't swear, he replied: 'Because, by God, I cannot do the subject justice' " (p. 616).

The task of selecting and editing the letters has been well done and there seems to be little ground for questioning Professor Nevins' belief "that this book contains nearly all of Cleveland's letters that are important to the student of his life and times" (p. vi). A brief introductory statement to each chapter supplies the reader with a helpful biographical thread which runs throughout the volume.

EVERETT S. BROWN.

University of Michigan.

The Constitution of the Irish Free State. BY LEO KOHN. With a foreword by the Chief Justice of the Irish Free State, the Hon. Hugh Kennedy. (London: George Allen and Unwin, Ltd. 1932. Pp. xv, 423.)

The reopening of the separatist controversy by the present government of the Irish Free State has made this comprehensive treatise on the constitution even more interesting and timely than it was when published several months ago. It is only fair to expect such a treatise to give a clear lead to the understanding of the important constitutional problems still in controversy, seeing that one had already been brought to an acute stage before the book was sent to press and others had long been foreshadowed. In this respect Dr. Kohn's analysis is defective, because he fails to take proper account of the effect of Section 2 (2) of the Statute of Westminster, and because he tends to neglect the British notion of Irish obligations under the treaty of 1921. It may as well be recognized that the separatist proposals are patently violations of the treaty. The repeal by the recent constitutional amendment of Section 2 of the Constitution Act of 1922, which gave legislative effect to the treaty in the Free State, was in the opinion of many itself a violation of the treaty. That question aside, important issues arise as to the legislative competence of the Free State under the terms of the Statute of Westminster.

Dr. Kohn's analysis of the articles of the Free State constitution is always clear and penetrating. His frequent brief but lucid statements of

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portions of the constitutional law of other countries not only illuminate his main theme, but also are a valuable contribution to the literature of comparative government. With respect to each article he makes full use of the supplementary statute law and court decisions, and the utterances of Irish and British political leaders. The expositional part of the book, which of course is its principal *raison d'être*, is an excellent piece of work, and the author is especially to be congratulated upon his fluent use of a language foreign to him. It is necessary to point out only a few errors of detail. The declaration of a state of siege is not authorized by the French constitutional laws (p. 137). The British Parliament never used joint sittings of the two houses as a method of settling disputes (p. 197). It is not made clear that sixty days must elapse after the second passing of a bill by the Dáil before it can become law without the assent of the Senate (p. 200).

A useful feature of the book is a carefully edited text of the constitution, with the changes introduced by the first sixteen amending laws clearly indicated. The changes proposed to be made by the Removal of Oath Bill, which has since gone into effect without the assent of the Senate, are indicated. The passing of three more amendments, affecting Articles 37, 41, and 66, is part of the program of the present government.

Soon, then, the Free State constitution will have "suffered" (Professor Finer's *mot* on our own constitution) twenty-one amendments—oddly the same as the present number of amendments to the American constitution. Twenty-one amendments have been a good deal more destructive of the former, and they have come about in a much shorter space of time. Indeed it is difficult to recognize in the present Free State constitution the original academic and authoritarian document. All of its peculiar, experimental features are gone—the institution of extern ministers, the ambitious scheme for a second chamber, the initiative and referendum. The newer series of amendments will have as their purpose the severance of all ties with Great Britain. Paradoxically, the earlier series deleted from the Free State constitution almost all of the features which distinguished it from the British constitution, so that it is now little more than an imitation of the latter.

JOSEPH R. STARR.

University of Minnesota.

Political Parties in the Irish Free State. BY WARNER MOSS. (New York: Columbia University Press. 1933. Pp. 233.)

This excellent study of political parties in the Irish Free State pushes forward the frontier of the field of party organization and methods, and thus assists in filling one of the voids in the literature of party govern-

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ment. Professor Moss went to Ireland to observe politics in the making, and although his observations in the Free State were limited to about five months on two different occasions, his pages give ample evidence that he has inhaled the atmosphere of Irish political life and has interpreted it quite faithfully.

After an adequate introductory chapter which perhaps necessarily makes up about one-fourth of the book, the author presents a detailed picture of the organization of the three leading Irish parties. This part of the book is particularly well done and deserves special commendation. Chapters devoted to the organization and conduct of electoral campaigns follow, and four very useful appendices are also included.

Dr. Moss has thrown a great deal of light on various important phases of Irish political life. His description of nominating methods, although quite brief, is both interesting and new. His occasional observations about the operation and effect of proportional representation in the Free State are likewise well-considered and fair. His description of Irish political geography and of the foundations of party strength might well have been enlarged upon. On the other hand, his analysis of Irish Free State elections and of the positions of the parties in the electoral struggles which have thus far taken place is first-rate.

In nearly every phase of the subject he has so carefully preserved his impartiality and has so discriminatingly selected his material that one should not cavil at a certain meagreness of factual data on two or three points. With certain expressions of opinion, one might disagree. One might also point out a few slight mistakes. But, all in all, the work makes a distinct contribution to the study of comparative party politics and therefore brings us much nearer to an understanding of the functioning of political institutions. It has opened up another largely unexplored region of party politics.

JAMES K. POLLOCK.

University of Michigan.

The Soviet State. By BERTRAM W. MAXWELL. (Topeka, Kansas: Steves and Wayburn. 1934. Pp. xvi, 383.)

In this volume, Professor Maxwell describes the state of Russia before the revolution of 1917 and the coming of the Soviets, and discusses citizenship, elections, the Communist party, municipal government, municipal finance and city planning, rural government, provincial government, organization of the central government, civil service and judiciary, administrative coercion, state liability and law enforcement, civil liberty, the church and the state, supervision of the press, police, supervision of economic and social life, labor legislation, women and children, social

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evils, and the administration of educational, cultural, and health institutions.

The work is based on observation and on an extensive study of laws and decrees. It does not pretend to any profundity of thought, and it is in no sense a penetrating work of social or political significance. But, in general, one cannot admire too much the skill with which the mosaic is put together out of its thousand details. Thus, this is a scholarly book and an honest book, and one which shows the results of a great deal of hard work.

The author points out that "although this treatise deals largely with legal relationships, yet the realistic point of view has been followed consistently, without, it is hoped, falling into the all-too-common error of creating a purely impressionistic picture." But the fact remains that the actual verdicts which the author renders bulk small in proportion to the mass of carefully detailed evidence that he presents. This is probably due to the very small number of authoritative works cited by the author. He has used R. N. Baldwin, W. R. Batsell, E. H. Chamberlin, Hans von Eckhardt, S. N. Harper, C. B. Hoover, and other well-known authorities and critics. But we find no mention of the works of H. N. Brailsford, W. Gurian, A. Malinskii, N. N. Popov, A. Feiler, P. Scheffer, etc. In addition, the author keeps his own critical personality (and that of the others) too much in reserve, and is too dependent on the legalistic approach. This has led him too often to forget the actual application of theories in practice. Consequently, the book is a valuable summary of fact, even though it is an indication of investigation that needs to be done rather than a survey of what has been successfully accomplished.

But these shortcomings do not prevent the book from being one of the most helpful, interesting, and constructive of the recent crop in its field.

JOSEPH S. ROUČEK.

Pennsylvania State College.

The Development of Social Insurance and Minimum Wage Legislation in Great Britain; A Study of British Social Legislation in Relation to a Minimum Standard of Living. BY HELEN FISHER HOHMAN. (Boston and New York: Houghton Mifflin Company. 1933. Pp. xxi, 441.)

Students of social politics find it valuable to turn again and again to the experience of Great Britain with the development of a national system of social insurance. It is now one hundred years from the New Poor Law of 1834, and yet the major social problem of Great Britain is to find work at a decent standard of living for her people. The brief recital of the table of contents of this book, awarded the Class A Hart, Schaffner, and Marx prize in 1928, will indicate both the historical background of the present social insurance policies in Great Britain and also the method the

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author has used in this study. The slow and sure reform of British institutions, of which Trevelyan speaks, is the story of the heritage of the nineteenth century and explains the Liberal program of reform which was laid between 1905 and 1911. The author sets forth the story of changing attitudes in chapters which deal with a minimum standard for the aged poor, standards of assistance for widows with children, health insurance in relation to a minimum standard of living, provisions for the unemployed workman, the poor law and the right to maintenance in 1920-1931, and, finally, the Trade Board Acts in relation to a minimum standard of living.

The development of the various measures to combat the human and social waste of the industrial system is adequately given, but rightly the major emphasis is upon the post-war period and the terrible strain upon the whole structure of the British social insurance schemes. Prolonged unemployment and the cumulative effects of post-war world economic dislocation have made necessary changes in opinions and attitudes on the problem of poverty and unemployment relief by the state. It is this phase of the author's study that is a contribution to the growing literature on social legislation. The lack of a definite policy in the development of social insurance, the confusion in administration of the hundreds of acts, and the unpreparedness of public opinion for an adequate answer to the problems of old age and unemployment and low wages—all are made plain in the survey of post-war legislation and administration. Social legislation as a necessary part of national security, and the international aspects of trade and work and wages, have yet to be recognized by the lawmaker.

The experience of Great Britain has been valuable for all nations attempting to control their economic and industrial revolutions. But the experience of Great Britain with her whole system of social insurance proves that modern industrial nations are just at the beginning of the problems of welfare in the present economic order. Social legislation must necessarily be a larger part of governmental action if there is tolerable security for the worker and the nation in which he lives. In any society in which higher standards of living are to obtain, social legislation will be a dominant concern of lawmakers and workers. The breakdown of existing forms of industrial organization may hopefully direct attention to adequate measures of security for the worker.

CHARLES W. PIPKIN.

Louisiana State University.

Le Gouvernement des Démocraties modernes. By BERNARD LAVERGNE. (Paris: Félix Alcan. 1933. Two vols. Pp. 624.)

The crisis facing the régimes which have issued from universal suffrage

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is daily becoming graver and more intense. Some parliaments have resigned themselves to the necessity of confiding their powers to cabinets endowed with extraordinary powers, while a number of dictatorships have been established upon the ruins of democracies powerless to resolve the grave problems of the day. Although such a situation would have seemed unbelievable twenty years ago, more than two-thirds of the people of Europe are now living under autocratic governments a thousand times more oppressive of public and private liberties than a Louis XIV or a Frederick II. How may we explain this downfall of the liberties believed by the last generation to have been definitively integrated in the patrimony of civilized humanity?

This is the primary burden of M. Lavergne's book, and it leads the author to inquire whether the current theory of universal suffrage meets the needs of the existing situation. Answering the question in the negative, the author proposes to substitute for the usual doctrine, which he considers to be merely metaphysical and *a priori*, a realistic theory believed to be both original and convincing. The right of the citizen to participate in the government of *la chose publique* is explained by the fact that, in order to live, he must constantly have recourse to a complete series of services furnished by the public authorities and for which he pays through taxation. Universal suffrage is given to each of us so that we may protect our moral and material interests—in short, our entire life. Nevertheless, a national collectivity cannot prosper, nor in the long run even maintain itself, if the general interest—quite different from the sum or the average of private interests—is incessantly sacrificed in favor of coalized individual interests. The French Parliament, as it is organized today, succeeds marvellously well in its task of defending private interests before the public authorities. But, in the reality of political life, who then has the responsibility and the authority to uphold the general interest as against private interests, whether the latter be corporative or individual? "Les Français sont actuellement représentés au Parlement non la France, avons-nous inscrit en exergue de ce livre. De là une direction où la France, souvent, ne se reconnaît pas."

Thus in our modern political structure there is a grave lacuna, a gaping hole through which the energy and the very life of the state seeps away without respite. So long as the active forces devoted to the service of the general interest have not been discovered and endowed with all the necessary authority, the crisis of the modern state will each day be aggravated. Now, these disinterested and competent forces, which the state must find if it is to be nourished and maintained, can emanate only from the body of the professional ranks, and in particular from all the social élites—both intellectual and economic élites. All knowledge ought to confer, in the political field as well as in practical life, a certain power

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of command. Thus, in order to put an end to the debility of the democratic state, we must recognize in all *corps sociaux* the right, yea even the duty, to determine those elected to the two houses of parliament. In this way the social universal suffrage will be superimposed upon the individual universal suffrage which is already practiced; and this social suffrage is quite different from that professional suffrage which many have already discussed. Like all human inventions, universal suffrage will have to disappear, or, if it is to subsist, must be amended and enriched.

This, in substance, is the central theme of the work. These brief lines will enable one to appreciate its amplitude and its originality. No doubt many of the new ideas formulated by M. Lavergne will be strongly contested, but surely no one can remain indifferent to their timeliness. For the great political problem of modern times is here debated.

In the course of this interesting study, the author has striven to get to the bottom, through careful analysis, of doctrinal conceptions, some of which he opposes and others defends. He has also described the concrete mechanism which, among many others, might be used to put his theories into practice. At the same time, this effort to provide a thorough and profound study has not interfered with the lucidity of the argument, which is easy to follow. Anyone who is troubled by the paralysis, or at least the crippled condition, of the governmental machine of modern states will take a lively interest in reading these pages, in which vigor is allied with that real courage needed to combat traditional concepts which are still approved by the majority of the authorities.

JOHN B. WHITTON.

Princeton University.

Droit constitutionnel international. By B. MIRKINE-GUETZÉVITCH. (Paris: Librairie du Recueil Sirey. 1933. Pp. 251.)

The relationship between municipal and international law is usually discussed from a purely formal point of view. What is the source and what is the degree of authority to be attributed respectively to the one and the other? Do they form two systems of law, mutually independent and based on two distinct sources of authority? Or do they form a unity? In the latter case, where is the seat of supreme law-giving authority—in the state (which would lead to the supremacy of constitutional law) or in the international community (which would mean the supremacy of international law)?

The present volume, too, deals with the problem of relations between municipal—mainly constitutional—law and international law. But the point of view is rather that of an historian or a political scientist. The author is concerned with the contents and the effects of constitutional

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and international rules, not with the formal authority attributed to them. A great wealth of material is brought together to show that the division between constitutional and international law by no means implies a corresponding division between rules of purely internal concern and those relating to matters of international interest. Indeed, national constitutions prescribe rules for such eminently "international" matters as war and peace and treaty-making, while, on the other hand, we find such essentially "constitutional" questions as the form of government in particular states, or the treatment by a state of its own nationals, governed by international law. The author seems to be justified in concluding that there is no sustained separation between the specific fields which constitutional and international rules seek to govern, and that these two sets of rules largely cover the same field. The difference between constitutional and international rules would then be merely one of procedural technique: formal enactment by unilateral action of one state only or by common action of several states.

Rules affecting international relations, whether they be enacted as constitutional or as international rules, tend to become more and more materially uniform. Professor Mirkine-Guetzévitch gives an interesting, if debatable scheme of the main trends of public law relating to international matters, and lays particular stress upon rules enacted as part of the constitutional law of particular states. He calls the latter "international constitutional law."

While refraining from a discussion of the authority of constitutional and international rules in a purely legal sense, the author has to consider the historical and social forces which have driven humanity, acting through states or otherwise, to develop rules concerning international organization, and to increase the material uniformity of these rules. He finds the chief of these driving forces in public opinion in its free and unfettered form, i.e., democracy. Democracy, essentially a movement aiming at the organization of society on the basis of equality of rights, tends, in the long run, to introduce the same principles in matters of international concern. The progress of international pacific organization, in the past as well as in the future, is said to be closely dependent upon the progress of democracy in human society. This "democratic" interpretation, in the reviewer's opinion the most challengeable generalization made in the volume, is mentioned here because of the author's particular insistence upon the point. It would seem, however, that the value of the main mass of material and conclusions presented by Mr. Mirkine-Guetzévitch is quite independent of the acceptance of his attitude on this question.

The author speaks repeatedly of the "historical and political unity of all public law." It seems to the reviewer that this term is somewhat too

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ambitious and might lead to misunderstandings. Of course, one might admit this unity, inasmuch as there is a certain unity in all historical developments, closely bound together by the chain of continuity. It is also admitted that constitutional and international rules are closely interwoven in the field of public relations. But the author obviously strives to indicate a unity of trends and developments in the rules affecting all public relations in human society, such as undoubtedly exists now in the field of international relations. It suffices, however, to consider for a moment the extreme diversity of constitutional developments in our day, in order to see that this unity is scarcely more than a pious wish. But this unity of public law seems to be closely allied, in the author's mind, with the reign of democracy.

Two of the author's main generalizations have been seriously questioned in this review. Many statements of detail also raise serious doubts. But, on the whole, few books on the subjects of constitutional law and international law have been read by the reviewer with more stimulating and suggestive effect.

BENJAMIN AKZIN.

University of Paris.

The Progress of International Government. BY DAVID MITRANY. (New Haven: Yale University Press. 1933. Pp. 176.)

The League Year-Book, 1933. EDITED BY JUDITH JACKSON AND STEPHEN KING-HALL. (New York: The Macmillan Company. 1933. Pp. xiv, 468.)

Dr. Mitrany's small volume contains four lectures delivered at Yale University on the William Dodge Foundation. The central problem dealt with is that of bringing about such a modification of the orthodox conception of the sovereignty of the states of the world as will enable and dispose them to enter into fully coöperative and peaceful relations with one another. The author believes that considerable progress toward this end (which progress he describes) has been achieved. He believes, however, that full success can be secured only by the general acceptance of the doctrine that there is a universal legal order which, as expounded by such writers as Verdross and Kelsen, is to be regarded as the source of municipal as well as of international law. In this universal legal order, the individual states are to be viewed as equals as regards the protection of their existing rights and the opportunity to acquire new rights, but unequal as regards their shares in the formulation of international policies in the execution of which they necessarily have unequal responsibilities. The failure in the past to make this distinction, says Dr. Mitrany, has hindered the development of international coöperative effort, and, in order to overcome this defect, so far as it is exhibited in the League of Nations, he suggests the establishment of smaller regional leagues whose

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several activities will be coördinated, and to an extent controlled, by the central or world League at Geneva.

Whether or not one agrees with Dr. Mitrany's views, his book will be found a stimulating one to read. Certainly the reviewer found it so, although he feels that, in common with so many other writers who criticize the orthodox or "positive" conception of sovereignty, Dr. Mitrany does not sufficiently appreciate that that conception, which is an indispensable one in the field of municipal law, does not prevent full coöperation between sovereign states, if sovereignty be regarded, as it should be, as connoting only legal competence as distinguished from moral rights, actual power, or political expediency.

The *League Year-Book*, the first edition of which appeared in 1932, is a reference work designed to give a detailed description of the manner in which the League of Nations is organized—its principal political organs, its commissions, committees, sub-committees, and other advisory and administrative agencies—together with the names of the persons serving upon these bodies and in the higher branches of the Secretariat. A similar, though briefer, description is given of the International Labor Office and the Permanent Court of International Justice. The activities of the League for the year are only summarized, but the texts of the Resolutions adopted by the Assembly are given in full. There is appended a carefully selected bibliography which lists not only the more important publications of the League, arranged according to subjects, but also the titles of leading works dealing with the League. The editors declare their intention to continue the yearly publication of the work if it meets with sufficient support, and it is to be hoped that this support will be forthcoming, for there can be no question that the volumes will be of great convenience for reference purposes to all persons who are interested in an organization which has become so complex, and whose activities are now so varied and numerous.

Sir Eric Drummond, former Secretary-General of the League, furnishes a short Foreword to the volume for 1932, and Lord Robert Cecil a similar commendatory note to the volume for 1933. The following statement by Viscount Cecil is worth quoting. He says: "When everything has been said about the non-success of the Economic Conference, the delays in disarmament, and the poltroonery or worse shown by some of the Great Powers in their dealing with the Far Eastern crisis, the broad fact remains that we have in vigorous life the first serious attempt at international organization for peace."

W. W. WILLOUGHBY.

Washington, D. C.

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Plebiscites Since the World War; With a Collection of Official Documents. By SARAH WAMBAUGH. Two volumes. (Washington: Carnegie Endowment for International Peace. 1933. Pp. xxix, 603; xiv, 614.)

The intensity of European political change has varied in cycles of a little over fifty years during the past few centuries. The last three of these periods, characterized by a decade or two of frequent wars and territorial transfers, were inaugurated by the French Revolutionary Wars (1793), the Crimean War (1854), and the Balkan Wars (1912). Each of these periods has been characterized by the use of plebiscites, and in each successive period the device has been used more frequently, by a more orderly procedure, and more successfully, than in the preceding period. The World War treaties and subsequent decisions of the Supreme Council provided for twelve plebiscites, of which seven have been held, resulting in a determination of the sovereignty of the area. The Saar Basin plebiscite is to be held in 1935, and the remaining four plebiscites were abandoned. A formal plebiscite in the Tacna-Arica area between Peru and Chile was arranged in accordance with President Coolidge's arbitration, but was subsequently abandoned. Eight unilateral consultations of the population of a given territory with a view to determining its sovereignty have been held, but in no case under conditions assuring a fair expression of opinion and with little or no effect upon the disposition of the territory. The possibility of plebiscites in many other areas was discussed during the Peace Conference. Thus a formal procedure for implementing the principle of self-determination has made considerable progress during the past century and a half.

Miss Wambaugh, already the acknowledged authority on the subject through her earlier monograph on pre-war plebiscites, has served in the Secretariat of the League of Nations, and also as an expert adviser of the Peruvian government in regard to the Tacna-Arica plebiscite. She now presents the definitive history of these post-war plebiscites. No information available by documents or personal interview is omitted, and the most important documents are published in full in the second volume. The Peace Conference debate leading to the acceptance or rejection of proposed plebiscites is presented; also the history in detail of each plebiscite, with full attention to administrative arrangements, propaganda, and actual voting, as well as to formal rules, statistics, and consequences, with detailed comparisons and analyses.

The author is optimistic. She believes that a plebiscite will in many cases give a cheaper, juster, and more permanent territorial settlement than any other method. It is not, however, suitable for all circumstances, and it may be worse than useless if "lacking the measures necessary for the protection of both parties." What these measures are is stated briefly in eighteen rules. They include a formal agreement of the states inter-

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ested, neutralization of the area during the plebiscite period, and delegation of full administrative authority during this period to an impartial commission supported by sufficient troops from impartial countries after evacuation of troops and partisan officials of both of the interested states. The attempted Tacna-Arica plebiscite ignored most of these rules. This seems amazing in view of the fact that President Coolidge and his advisers, who made the award authorizing and regulating this plebiscite, could easily have examined the experience accumulated in recent European plebiscites and fully recorded in Miss Wambaugh's earlier treatise.

One of the interesting features of this study is the clear evidence it contains that the language spoken in an area is a wholly inadequate guide to the opinion of the people. In most of the plebiscite areas surrounding Germany, that country received far more votes than her own figures of linguistic nationality would have led her to expect. The same is true of the Austrian vote in Klagenfurt. In some communes, especially the rural, more than fifty per cent of the people voted contrary to the linguistic expectation. The fairness of these European plebiscites is indicated by the fact that, although organized under Allied control, the majority of the votes favored one of the Central Powers in every case except the northern district of Schleswig. Only in the Upper Silesian plebiscite had the treaty failed to provide a definite boundary according to the result of the vote. This treaty provision contemplated a division of the plebiscite area in accord with the vote which was taken by communes, and while the line was not notably unfair to Germany, it has led to much dissatisfaction in that country. This was also the most expensive of these plebiscites because of several attempted Polish *coups*; its cost was thirty million dollars, while the others cost in all cases under half a million dollars.

It is coming to be recognized that satisfactory methods of peaceful territorial change are a necessary condition of permanent peace. All methods proposed have their faults, but doubtless the method of plebiscite will play an increasingly important part. While not yet recognized in international law as obligatory, Miss Wambaugh believes that two principles are emerging due to the institution of the League of Nations. "The first is that in the future any disposition of an area contrary to the will of the inhabitants will be improper unless it shall be done by the League itself in the interests of society as a whole. The second is that if the League should find that it cannot gratify the inhabitants' desire, it should internationalize the area" (Vol. I, p. 493). To the development of this device, Miss Wambaugh's masterful treatises have made a signal contribution.

QUINCY WRIGHT.

University of Chicago.

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La Nationalité dans la Science sociale et dans le Droit contemporain. By B. Akzin and others. (Paris: Librairie du Recueil Sirey. 1933. Pp. xi, 349.)

Regional Guarantees of Minority Rights; A Study of Minorities Procedure in Upper Silesia. By Julius Stone. (New York: The Macmillan Company. 1933. Pp. xi, 313.)

The first of these two books is the third in a series of monographs on public law prepared by members of the *Institut de Droit Comparé de l'Université de Paris.* In the preface, the director, M. Levy-Ullmann and deputy-director, M. Gidel, set forth as their aim in publishing this series to educate jurists in the juridical texture of all countries and to give the more enlightened public elementary knowledge of social organization throughout the world. At the basis of modern social organization is found the idea of nationality. Therefore, the Institute has undertaken to present a comprehensive study of nationality according to the most recent methods of investigation and scientific classification.

Fourteen authors have contributed to the study, which is divided into two distinct parts. In the first part, B. Akzin, J. Ray, Mirkine-Guetzévitch, Mlle. Basdevant, and others treat nationality in its sociological, historical, and political aspects. The word "nationality" is used by some of the authors in the sense of status of persons in relation to the state, nationality being akin to citizenship but of broader connotation. By others it is used to denote a social group united by factors such as common language, customs, and traditions. One author deals with the "doctrine of nationalities," which has had the same force in political theory and practical politics as principles like that of "natural frontiers." Nothing original is added to existing literature in the analyses of factors producing the feeling of unity among a people regarded as a nationality, of the difference of the older idea of allegiance to a sovereign and the modern idea of nationality, of provisions of modern constitutions embodying the philosophic ideas of the eighteenth century, of the effect of emigration and transfers of territory on nationality, and of other questions. The same is true of the second part of the study, to which six authors have contributed a summary account of contemporary legislation on the legal aspects of the subject, such as origin and loss of nationality, naturalization, and conflicts between nationalities. However, the Institute has provided a useful survey of the subject, bringing together in one volume the fruits of contemporary scholarship.

Regional Guarantees of Minority Rights is an excellent study of one type of procedure at present in force under treaties for the protection of minorities, namely, that provided by the convention between Germany and Poland. The author describes the book as a companion to *International Guarantees of Minority Rights,* published by the Oxford University Press

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in 1932, in which he dealt with the type of procedure which the League Council has developed in its rôle as guarantor of the several treaties concluded at the time of the Versailles Conference. The procedure in cases arising in Upper Silesia differs from the other particularly in providing regional machinery to which minorities have direct access. He finds certain advantages in the procedure provided by the convention to which the Council and signatories of the other treaties might profitably give their attention. The appendix, constituting a third of the volume, contains the text of the German-Polish convention of May 15, 1922, the rules of procedure of the Mixed Commission for Upper Silesia, pertinent resolutions and minutes of the League Council, and tables showing the cases submitted to the president of the Mixed Commission and those submitted to the Council. Mr. Stone maintains the high standard of scholarship achieved in his earlier study, which the present reviewer characterized in this REVIEW in April, 1933, as the best account of minorities procedure yet written.

HOWARD B. CALDERWOOD.

University of Michigan.

Judicial Aspects of Foreign Relations. By LOUIS L. JAFFE. (Cambridge: Harvard University Press. 1933. Pp. xi, 278.)

This book represents an attempt to "develop a theory of the function of recognition of foreign powers, considering the theories of the past and the present, the history out of which they grew, their relation to the basic concepts of international law and in particular to the theory of external sovereignty, and their truth and value in terms of current practice and current needs." As a background to his main task, the author discusses the doctrine and practice of the courts in regard to so-called "political questions," which he illustrates by reference to numerous cases. He then analyzes the theory and practice of recognition, and particularly the attitude and jurisprudence of the courts in respect to the recognition or non-recognition of foreign states and governments. He calls attention to some of the anomalous situations and contradictions which result from the present practice, to say nothing of the manifest injustice as regards private rights to which it sometimes leads.

As Mr. Jaffe points out, the power of non-recognition, instead of being based upon juridical principles, is today being employed as an instrument of national policy, and even as a political weapon. Some of the "dogmas" which underlie the current theory are quite untenable and illogical, such as the theory that in the eyes of the courts and executive authorities of non-recognizing states, an unrecognized government has no existence, that is, its existence is dependent upon its being recognized by other states. This is equally true, the author adds, of the assumption

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that between the national and the international social order there is a clear line of cleavage, and that it is possible to insulate the order of the forum from other national orders and from the international order. He criticizes, it must be said in a strictly judicial spirit, the attitude which the courts have adopted in some cases. "Too often," he thinks, "they have failed to rise to the high levels of judicial law-making demanded by the situation," being hindered by the dead weight of rigid and untenable formulas; too often they have adopted a narrow and insular conception of their function, viewing it as definitely limited to the preservation of the national order, as if the national order could exist in a vacuum unrelated to other national orders and the international order, which is merely the sum of all the national orders.

The author aptly remarks that the long period during which the government of Soviet Russia was unrecognized gave rise to a "formidable host of profound and perplexing problems," like a crop of armed warriors springing from the dragon's teeth. He calls attention to some of these problems and discusses especially the attitude toward them which the courts have adopted.

JAMES W. GARNER.

University of Illinois.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND CONSTITUTIONAL LAW

Chapters in Public Finance (Ray Long and Richard R. Smith, pp. 400–562), by Paul Studenski, reprinted from a two-volume work on *Economic Principles and Problems*, presents a well written general summary of this subject. The four chapters deal with the nature and mechanism of public economy (including budget methods), public expenditures, public revenues, and public credit. The growth of public expenditures, revenues, and debts is discussed and analyzed, with comparative data for the United States, Canada, the principal European countries, and Japan. The reasons for increased expenditures, the more important kinds of taxes and other revenues, and the economic effects of expenditures, taxes, and debts are considered briefly. Lists of suggested readings are given at the end of each chapter. *The Theory and Practice of Modern Taxation* (Commerce Clearing House, Inc., pp. 266), by William Raymond Green, furnishes a more extended discussion of present-day methods of taxation, with special reference to those of the national government in the United States. Most attention is given to income and profits taxes, including the problems of capital gains and losses, and the collection and evasion of the income tax. Other chapters deal with estate and inheritance taxes, sales taxes, and capital levies. Some account is given of the British and French

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systems of taxation and the burden of taxation in the principal countries; and there is a brief consideration of state taxation and national and state expenditures in the United States. The author writes from his experience as chairman of the ways and means committee of the House of Representatives, and also shows his acquaintance with the views of leading economists. A program for changes in the state revenue laws to meet depression conditions, and a discussion of the reorganization of local government as a means of economy, are presented in the third report of the New York state commission for the revision of the tax laws, submitted February 15, 1933 (Legislative Document No. 56, pp. 216). Recommendations on local government include proposals for county home rule, optional forms of county government, and the creation of a state administrative district for the thinly populated Adirondack and border regions. An *Assessors' Manual* (pp. 69) has been issued by the Illinois tax commission, including the law relating to the assessment of property, and suggestions as to assessment procedure for valuing the various classes of personal property. A comparative study of *Legal Provisions Affecting Real Estate Tax Delinquency, Tax Sales, and Redemption* (pp. 41), by M. H. Hunter, has been published by the University of Illinois Bureau of Business Research. The American Municipal Association has issued a number of mimeographed reports on municipal revenues, dealing with *License Taxes, Revenues from Municipal Franchises, Installment Payment of Taxes,* and *State General Sales Tax Laws;* and bulletins entitled *Significant Changes in State Tax Systems* and *Tax Limits Prove Unwise* have been published by the General Welfare Tax League.—JOHN A. FAIRLIE.

In *The Economics of the Recovery Program* (McGraw-Hill Book Co., pp. 188), seven Harvard economists offer acute criticism of the Roosevelt Administration's policies. They indicate that, so long as the profit system is maintained, attempts to increase mass purchasing power by higher wages, shorter hours, artificial raising of farm prices, inflation, or inflationary public works, can result only in a general price increase which will leave real purchasing power where it was before. There are differences of opinion among the seven writers, but they share a general pessimism as to the possibilities of a managed capitalism, and apparently agree with the conclusions of the first and last essays, that what is needed is complete *laissez-faire* with an infusion of nobler business ethics. Leonard P. Ayres, in *The Economics of Recovery* (The Macmillan Co., pp. 185), holds the same faith in uncontrolled private enterprise, and blames the uncertainties of the Roosevelt policies for destroying revived confidence that had already started recovery in 1932. Like the Harvard economists, he considers the depression due primarily to non-economic causes: to the war, he thinks, which destroyed the normal equilibrium between pro-

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duction, demand, and the flow of credit. He notices that unemployment in 1933 is primarily among those engaged in making "durable goods" in 1929; and as industrialists, not wage-earners, would purchase durable goods, he has no use for Roosevelt's attempts to raise labor's purchasing power at the expense of the industrialists' profits. Why industrialists should think it advantageous to invest in durable goods and expand production in the face of the depleted buying power of the mass of consumers, neither he nor the Harvard economists tell us. R. G. Hawtrey, in *Trade Depression and the Way Out* (Longmans, Green and Co., pp. 174), a new and enlarged edition of a book first published in 1931, analyzes the history of the depression in terms of monetary and credit policies. Mr. Hawtrey repeats his insistence that contraction of bank credit was the main cause of the depression, by leading to decreased production, and thus to unemployment and decreased demand. He sees the best hope of recovery in the inflationary policies of the Roosevelt administration. Withdrawal from the gold standard is an opportunity by which "each country separately can find the way out of the trade depression by so adjusting the purchasing power of its currency unit as to secure equilibrium between prices, wages, and debts." Mr. Hawtrey fears that the Administration's wage-raising policy may hinder recovery, inasmuch as wages, encroaching on profits, may deprive the industrialist of the incentive to expand production. How this equilibrium between prices and wages is to be found without encroaching on the industrialist's profits, Mr. Hawtrey does not adequately explain.—JOHN D. LEWIS.

Every worker in the field of federal law will welcome as a most valuable tool in locating provisions of law buried in acts pertaining to other subjects the recently published *Index to the Federal Statutes, 1874–1931. General and Permanent Law Contained in the Revised Statutes of 1874 and Volumes 18–46 of the Statutes at Large. Revision of the Scott and Beaman Index Analysis of the Federal Statutes* (Government Printing Office, pp. 1432), prepared by Walter H. McClenon and Wilfred C. Gilbert, of the Legislative Reference Service, Library of Congress. The volume not merely represents a bringing to date of the Scott and Beaman references, but embodies a complete recasting of the entries. The citations are to the Revised Statutes, to the Statutes at Large by volume, page, section, and date, and to the United States Code by title and section. As the index to the United States Code is entirely inadequate, the present volume serves as an index to that publication. It includes all laws of a permanent character at the time of passage, and provisions repealed, superseded, or no longer in force are indicated. In addition to the main index entries, it contains voluminous footnotes giving convenient lists of statutes, treaties, and proclamations on particular subjects. It has ample cross references,

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but the alphabetical arrangement is contrary to that generally used, since the divisions between words are disregarded; thus Postal Service precedes Post Office Department, and Publicity appears between Public Health Service and Public Lands. Unless the user bears this in mind, he is likely to miss the entry desired. The appendix contains the following useful material: references to statutory definitions of words and phrases; lists of treaties and conventions, by countries; official or popular names of statutes, treaties, and proclamations; reference table to U. S. Code, Supplement V; and table of repeals and amendments.—L. F. SCHMECKEBIER.

Government in the United States (Thomas Y. Crowell Co., pp. xiii, 696), by Claudius O. Johnson, is intended for use as a textbook in college classes. The subject-matter and treatment appear to follow orthodox lines except in that feature of the arrangement which disregards the customary separate parts upon national and state government. The chapters on the presidency are followed immediately by a chapter on the state governor, the chapters on Congress by a chapter on state legislatures, and so on. In some cases, where a subject such as the civil service is treated in a single chapter, the section on the federal civil service is followed by a section dealing with the states. A few chapters carry the "functional" treatment further in that the division into two separate parts, national and state, is not quite so definite, but on the whole the "functional" feature consists in bringing into juxtaposition the chapters or sections, national and state, on a single subject. It appears to have had the result, however, of eliminating some of the repetition that occurs in texts in which such chapters are widely separated. There are two introductory historical chapters. The chapters on civil rights, citizenship and the suffrage, and political parties and campaigns precede those that describe the departments of government. Inter-governmental relations, government finance, commerce, agriculture, labor, social welfare, and in general the subjects usually dealt with in texts on United States government, have received well-balanced consideration. Federal legislation is brought down through the special session of 1933. The book is interestingly written, and teachers who prefer its order of treatment will find it adequate and serviceable.—W. REED WEST.

Ten years ago, the first edition of William B. Munro's readable and lively little volume, *Personality in Politics* (Macmillan Co., pp. 121), made its appearance. Since that time, research on personality has been making slow but nevertheless discernible progress. The new edition of Munro's book is hardly a record of this progress. Except for a few minor illustrations from events of the last ten years, the book is essentially the same as the earlier edition. No mention is made of the work of Rice,

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Visher, Roback, Lasswell, and others in analyzing personality types. While the influence of Lippmann's discussion of public opinion is apparent in this book, no reference is made to the work of Dewey, Odegard, Allport and others in this field. Foreign writers are also ignored. However, the volume still stands as a brilliant essay and its usefulness has been increased by the addition of an index.—HAROLD F. GOSNELL.

In his monograph on *The Federal Reserve Board* (Johns Hopkins Press, pp. ix, 216), William O. Weyforth has analyzed the powers and functions of the Board in relation to those of the federal reserve banks with a view to determining their adequacy for the purposes of credit control. After discussing reserves and note issues, loans and rediscounts, and open market powers, the author weighs all of the factors involved and concludes that greater power over discount rates and open market operations should be lodged in the Board in order to permit it to function effectively. Changes designed to strengthen the personnel of the Board are also advocated. To the political scientist, this volume will be of interest chiefly as a study of control through an administrative board of the type which has attained significance among American political institutions.—FREDERICK A. BRADFORD.

STATE AND LOCAL GOVERNMENT

So that those who run may read somewhat of land planning, Professor Patrick Abercrombie has written *Town and Country Planning* (Henry Holt and Co., pp. 256). This book, unlike most popularizations, will probably be rather popular. Mr. Abercrombie writes deftly, the book is small enough to slip in one's jacket, and the print is large enough to read even on a London omnibus. The book treats concisely of the principles of historic and modern civic design. The illustrations actually illustrate. If Mr. Abercrombie peters out a little in his discussion of country planning and rural preservation, it is only the inevitable penalty of trying completely to "cover the subject." But for a succinct narrative and analysis of the patterns of cities and the plans of great planners this little volume is unique; even the tired college professor of the New Deal will find it absorbing and stimulating. Of another sort is Sir E. D. Simon's *The Anti-Slum Campaign* (Longmans, Green and Co., pp. 206). For the professional planner and the civic reformer, this is the Word. It traces the tedious, tortuous progress of slum clearance legislation and activity through the administration of the Addison, Chamberlain, Wheatley, and Greenwood Acts. It gets down to brass tacks. The question of rent restriction is discussed in its basic and elementary terms. The problem of administrative agencies is treated with brevity, but clearly. The general problem of the housing shortage—of the tasks of the administrative agencies—is

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analyzed in Manchester and other principal British cities. Subsidies and the effects which they have on prices of building are discussed in terms which the RFC and TVA could and should understand. The problem of differential renting is treated with unusual clarity. It is, in short, a grand piece of work.—ROWLAND EGGER.

Those students of municipal government who have not been keeping up with the developments in urban sociology will find N. P. Gist and L. A. Halbert's *Urban Society* (Thomas Y. Crowell Company, pp. xvi, 724) very suggestive. Such sociological concepts as human ecology, symbiosis, succession, isolation, and social distance are used as frames of reference for the statistical and other materials which have been collected. The authors do not claim to have added to the theoretical analysis of modern urbanism, but they have brought together in convenient form some of the recent interpretations of city life. Political scientists who are concerned with such problems as governmental areas, political assimilation, citizenship training, and the service functions of modern municipalities will find the book useful and stimulating. The sections on the political organization of the city are set in a rich background. The sociological vocabulary was furnished by Gist, who studied at Kansas State Teachers College, the Geneva School of International Studies, the University of Kansas, the University of Chicago, and Northwestern University, while the materials on social work were supplied by Halbert, who has had many years of experience in social settlement work, pardon and parole work, and public welfare administration, and who is now supervisor of emergency relief in the District of Columbia. Gist is somewhat out of date in his handling of materials on vital statistics and insanity rates. The authors have relied heavily upon Park, Burgess, MacKenzie, Carpenter, and others.—HAROLD F. GOSNELL.

In his *Administration of Workmen's Compensation* (University of Wisconsin Studies in the Social Sciences and History, pp. 88), Ray Andrews Brown attributes the effective administration of the Wisconsin workmen's compensation law to the highly efficient and experienced personnel of the state industrial commission. The author approaches his problem with a lawyer's viewpoint, but tempered with an understanding of the theory of workmen's compensation and a recognition of the desirability, in administering the law, of avoiding overly legalistic procedure. One of the most interesting impressions gained from reading this volume is the widespread confidence in the judgment of the commission and its examiners, which is shared by the state supreme court. Among the suggestions made for improving the administration of the act is the recommendation that there be included on the commission's staff a trained

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lawyer whose function would be to advise claimants who are not represented by counsel. This recommendation, the author points out, would not only relieve the commission of the duty of advocate, which he believes would be desirable in the interest of impartial adjudication of cases, but would also obviate delays now occurring because of faulty preparation of cases. The only concerted criticism of the commission, according to Professor Brown, comes from the state Federation of Labor and is based on the charge that physicians, who are selected by the insurance carriers, are frequently grossly biased against the workmen. The author concludes that in this respect "the ideal of perfect parity is not attained," but he avoids a critical appraisal of the solution demanded by the Federation of Labor i.e., exclusive state fund insurance.

In her beautiful volume *Amana That Was and Amana That Is* (State Historical Society of Iowa, pp. 502), Mrs. Bertha M. H. Shambaugh has produced a book possessing considerable interest for the student of politics and the art of community management as well as for the historian. Reprinting her *Amana: The Community of True Inspiration*, first published twenty-five years ago, as Part I, or *Amana That Was*, she follows it with an account of the reorganization achieved on June 1, 1932, which gives us *Amana That Is*. Part I occupies 332 pages, Part II, 103, aside from the articles of incorporation, by-laws, etc., which conclude the text. For most purposes, Part II is the important feature of the book. It aims to show how a communistic society of which inspirational religion was the bond, and the supposedly inspired religious leaders the actual rulers of the lives of its members, transformed itself into two corporations, a church and a business organization, of which each possesses important functions of local government. The Society had long been a civil town. Under the reorganization, the church has duties toward the poor and toward education, while the other corporation, under a democratically chosen board of directors, plans the business of the community, dominates internal affairs, and stands between the community and the outside world. Some features of the organization for economic planning and procedures might be suggestive in connection with proposed reorganizations of American towns and counties.—Joseph Schafer.

County Government Costs in Pennsylvania (Bulletin No. 297 of Pennsylvania State College, pp. 79), by F. P. Weaver and H. F. Aldenfer, deals primarily with expenditures in thirteen Pennsylvania counties for five years taken at intervals from 1913 to 1931. It is largely a statistical study containing 73 tables ranging in length from about one-fourth of a page to three pages each, and four very interesting charts and figures. Some noteworthy facts are brought out, particularly in connection with the absence of any discretion on the part of county authorities in spending

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money, and the impossibility of fixing easily the responsibility for unwise expenditures of a discretionary nature. As high as 86.3 per cent of a county's expenditures, exclusive of debt service, were mandatory under the state's laws. Twenty-three different methods of procedure in making expenditures by county authorities are listed. The authors fail, however, to analyze sufficiently the benefits received from expenditures to justify, in the reviewer's mind, any conclusion that expenditures are too high. It is not unusual to find that a government's expenditures have increased since 1913—even at a greater rate than the cost of living. But a low per capita expenditure does not necessarily augur well for a political area. Comparisons of expenditures for simple services, e.g., those of a clerical nature, may justify the conclusion that certain counties are profligate spenders. But unless services are better analyzed, studies of this sort cannot be conclusive with reference to the wisdom of outlays for such services as education, highways, public health, and poor relief.—P. S. SIKES.

"The development of modern transportation and of the coal, iron, and steel industries and the tremendous economic and social changes which have produced the modern city have made private policing imperative," concludes J. P. Shalloo in his *Private Police* (American Academy of Political and Social Science, pp. IX, 224). Nevertheless, he is convinced that the state should control these "modern private armies" by making them directly responsible to local police departments or placing them under a state bureau of industrial police. Discussing railroad, coal, and iron police, private detectives, and patrolmen, with special reference to Pennsylvania as offering a typical situation, Dr. Shalloo has brought together the scattered legal and economic materials and presented the conflicting viewpoints of the employer and of organized labor. Regarding railroad police, "the fact that few complaints have been directed against them is eloquent of the efficiency with which they are controlled by the railroads." Adequate statistics and a well selected bibliography complete this first and promising monograph issued by the American Academy.—M. D. STEEVER.

The greater part of George O. Fairweather's pamphlet, *Wanted: Intelligent Local Self-Government* (University of Chicago Press, pp. vii, 52), is a diatribe against human nature in politics in a metropolitan area, although he thinks of it as a polemic against the party system there. His chief proposal is to substitute men who will work for the common good in place of the gentry that at present strive to satisfy some private or factional end. One of his recommendations for bringing this about looks to the selection of ward leaders by the elected precinct committeemen,

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which happens to be the plan that Vare uses in Philadelphia.—J. T. SALTER.

In *The Constitution and Government of Texas* (D. C. Heath and Company, pp. 170, 86, iv), Professors Frank M. Stewart and Joseph L. Clark have succeeded in providing a usable college text on the government of Texas. Chapters are well documented and show the institutions of government as growing and developing and not static. Chapter I on the historical development of the Texas constitution, and Chapter II on the processes of amendment and revision, as well as the careful citation of cases throughout the book, contribute especially to such a concept of government.—BURR W. PHILLIPS.

The recently organized National Association of Housing Officials, with headquarters at 850 East 58th St., Chicago, has issued *State Laws for Public Housing; A Memorandum on the Drafting of Enabling Acts for Public Housing Agencies* (pp. 18). In view of the flood of legislation in recent months creating public boards to supervise the activity of private limited-dividend corporations eligible for loans of federal funds, the publication is timely.

FOREIGN AND COMPARATIVE GOVERNMENT

In *The National Workshops; A Study in the French Revolution of 1848* (Harvard University Press, pp. 191), Donald Cope McKay presents an interesting and authoritative study of a hitherto neglected subject. In the introduction there is a brief but significant analysis of the pathetic conditions of the proletariat on the eve of the Revolution of 1848. Widespread unemployment, governmental repression of workers' organizations and their consequent establishment under disguise, waste and corruption in political life, finally produced desperation, rioting, and crime. In the first chapter, the author relates the circumstances under which the Provisional Government was established and emphasizes its inherent weakness, which arose from the fact that it drew its support from both moderates and radicals. The former wanted only a political revolution; the latter were insistent on far-reaching social and economic changes looking toward socialism. The moderates, faced by the demands of the workers threatening further revolution, reluctantly decreed the establishment of the workshops, but placed them in charge of men who bitterly opposed them. Chaotic conditions prevailed from the beginning, partly because of the enormous numbers who sought employment. The remaining chapters deal with the dramatic story of the workshops: their organization on a semi-military basis by Émile Thomas; the enrollment of the workers in the National Guard; their loyalty during the demonstrations conducted by radical workers; the failure of the government to provide adequate

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work; the election of an Assembly hostile to the workshops, which, under the leadership of Falloux, forced upon the government the policy of dissolving the establishments; the insurrection of the June days after the abduction of Thomas; and, finally, the abolition of the workshops after the suppression of the insurrection. The volume is well written; it contains keen analysis of political and economic forces, and is well documented with excellent source materials, including unpublished materials in the *Archives Nationales* and the *Archives de la Seine*.—ELMER D. GRAPER.

In *The Great Offensive* (Harrison Smith and Robert Haas, pp. xi, 368), Maurice Hindus, the well-known author of *Humanity Uprooted*, etc., contributes another book on the new Russia in his usual fascinating manner. The work is divided into three parts. In the first, entitled "For a New Economic Order," the machine, its production, and its effect on human nature in Russia is discussed. A new generation is arising which has no desire for individual gain, and the enthusiasm of youth has transformed the procrastinating and slothful Russia of the past. The villages, which were noted for their backwardness, are gradually, under the influence of the followers of the new régime, developing into more hopeful and enterprising communities. Collectivism, with its employment of agricultural machinery, is effectively eliminating primitive methods in agriculture. In Part II, which is entitled "For a New Human Personality," the author analyzes religion, morality, prostitution, the family, school, art, army, jails, and man—a formidable array of subjects to which, of course, no one could do justice within the scope of 137 pages. Mr. Hindus here repeats some of the observations made in his other books, adding some new developments which have taken place in recent years. In Part III, entitled "For New Adventures," observations on developments in Siberia are noted. In the concluding pages of the book, the author ventures the opinion that world revolution brought about by Bolshevik propaganda is not within the realm of possibility. *The Great Offensive* makes interesting reading. It will deservedly have a wide appeal.—B. W. MAXWELL.

Political Handbook of the World; Parliaments, Parties, and Press as of January 1, 1934 (Harper and Brothers, pp. 202), edited by Walter H. Mallory, is the sixth annual issue of a political *vade mecum* which has passed the experimental stage and established itself as an indispensable tool for students of contemporary government and politics. As usual, the countries of the world are listed alphabetically, and for each are presented three main groups of data: (1) party alignments in the houses of parliament, (2) party programs and leaders, and (3) the principal newspapers, with their political affiliations and the names of their editors or

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proprietors. The materials have been assembled with scrupulous care and presented concisely and attractively.

Professor James K. Pollock and Mr. H. J. Heneman have rendered a timely service to teachers of government by publishing in an inexpensive edition translations of the more important decrees of the German National Socialist government—*The Hitler Decrees* (George Wahr, Ann Arbor, pp. 82). These decrees, translated from the official *Reichsgesetzblatt*, present a precise documentary picture of the tremendous changes which the Nazi Revolution has effected in every phase of German government and life. The collection includes also a translation of the official program of the N.S.D.A.P., and of Hitler's more important speeches.

A volume issued recently in the "Economic and Social History of the World War," directed by Professor James T. Shotwell, is *La Pologne; sa vie économique et sociale pendant la guerre* (Les Presses Universitaires de France, pp. xii, 627), by Marcel Handelsman and five Polish collaborators. Students of government will be interested chiefly in a section of some 140 pages presenting a full and lucid account of the war-time efforts culminating in the creation of the present republic.

INTERNATIONAL LAW AND RELATIONS

A Study of Chinese Boycotts (Johns Hopkins Press, pp. xii, 306), by C. F. Remer, will be of interest not merely to the student of the commerce and politics of the Far East, but also to political scientists generally. While tracing minutely the development of boycotting in China from 1905 down through the most recent and extended movement of 1931, there is an introductory chapter on the difference between a "League boycott" and a "Chinese boycott," and the concluding chapter devotes some attention to boycotts in general. As to the 1931 boycott, the author concludes that it was so effective that one would not expect the Japanese lightly to provoke another like it. A boycott conducted by the most approved modern methods may be expected to reduce imports from the offending country about ten per cent in North China and from twenty-five to forty per cent in Central and South China. As to whether the boycott in the hands of the Chinese has been, or is likely to be, an effective weapon in securing political concessions from Japan, the author is more in doubt. In the past, some boycotts appear to have been measurably successful, but the notable fact is that Japanese policy in recent years has moved steadily on. The boycott as a weapon is apt to be like a blunderbuss. The author concludes, somewhat inconclusively: "Boycotting by a single nation is like the labor strike. The threat to strike is powerful; the strike itself is likely to be costly and inefficient. It seems plain that

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coercion will continue to hold a place in international relations. If, as we hope, the accepted form of coercion is no longer to be war, the boycott in some form will, no doubt, find an important place. It is, undoubtedly, the world's oldest form of non-violent coercion. With the renunciation of war it may become a powerful weapon." The study was worth doing and has been done well.—TYLER DENNETT.

To attempt to read Walton Newbold's *Democracy, Debts, and Disarmament* (E. P. Dutton and Co., pp. xiv, 342) with its title or chapter headings in mind is only to make a difficult task more difficult. Just what the author intended by collecting between the covers of one book this series of observations, impressions, *pseudo*-facts, and occasional facts, this reviewer is at a loss to say. Somehow the impression is gained that the real intent was to show the interrelations of domestic politics, banks, industry, international finance, and international politics. Lacking a central theme, however, these aggregates of sentences fail to convey a picture of anything in particular. It is unfortunate indeed that one who, in his introduction, admits his wide travels and his training "as a research worker in economic as well as political history" should have permitted his manuscript to go to press so prematurely. Assuming that the content of a book should relate in some way to its title, careful revision of the manuscript might have resulted in the elimination of the large quantity of extraneous material which now serves only to becloud the issues and to confuse the reader. Such a revision might also have given opportunity to distinguish between facts, capable of substantiation by specific references, and mere opinions of the author. Most important of all, however, it would have served to remove mistatements, such as that Japan imposed the "notorious Fourteen Points" upon China (p. 68), or that "on the 9th of February the United States secured the entry of China into the war on the side of the Allies" (p. 72).—WALTER H. C. LAVES.

In his doctoral dissertation, *Great Britain and the German Trade Rivalry 1875–1914* (University of Pennsylvania Press, pp. xii, 363), Dr. Ross J. S. Hoffman, of New York University, has attempted to depict the inroads of German commerce and industry on British markets in the prewar period, the British national reaction to this unwelcome competition, and the influence of the resulting economic rivalry on British policy toward Germany. The book contains a large amount of factual information about Anglo-German commercial relations and the trends of British opinion toward Germany. The conclusion is not new: "The British government may stand acquitted of making war for the ends of trade, but that the anti-German orientation of the British mind and British world policy sprang chiefly from the great economic competition seems incontrovertibly proved." The technique of analysis employed in arriving at

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this conclusion leaves much to be desired. It rests upon no clearly formulated conception of the processes by which foreign policy is determined. It involves no examination of the specific economic consequences of German competition to various groups in British society, nor of the tensions and resentments engendered thereby, nor of the rôle of these groups in shaping British opinion. Dr. Ross, in short, is insufficiently aware of the background patterns of social and political interrelationships, and he fails to verbalize his basic assumptions. Within the limitations of these faults, which the author shares with most historians and many social scientists, the work is commendable for being well-written, informative, adequately documented, and competently organized.—FREDERICK L. SCHUMAN.

As editor and principal author of *Survey of International Affairs, 1932* (Oxford University Press, pp. vi, 643), Professor Arnold J. Toynbee found the events of the year covered sufficiently different in nature from those of the cataclysmic year 1931 to permit a return to the usual method of the series—that, namely, of concentrating upon the external relations of different countries with one another, instead of going deeply into the internal affairs of the countries that were playing the leading rôles. As a result, the present volume is taken up with substantial surveys of tariffs and exchange control and of debts and defaults, by H. V. Hodson; German reparations and war debts, by R. J. Stopford; non-German reparations, by Jules Menken; and with three lengthy studies by Professor Toynbee himself dealing with disarmament and security, Northeastern Europe, and the Far East. All of the surveys are well done, but perhaps the one which contributes most is that in which Professor Toynbee reviews and interprets the relations between Germany and Poland in 1926–32 and between Poland and Danzig in the same period. As usual, a full chronology of events, enriched with documentary citations, is appended. A second and related annual publication of the Royal Institute of International Affairs, *Documents on International Affairs, 1932* (Oxford University Press, pp. xiii, 437), edited by John W. Wheeler-Bennett, will similarly be of great value to students of international relations. About half of the volume is devoted to documents of 1932 on reparations, war debts (especially to the United States), and disarmament. The other half has wisely been planned to bring together for the first time all of the significant documents relating to the Sino-Japanese dispute from September, 1931, to March, 1933, "a complete chapter in itself," observes Lord Eustace Percy in the Introduction which he supplies as chairman of the Institute's publications committee, "though a chapter in a story which may yet, one hopes, have a happier ending than now seems probable" (p. v). The volume closes with a complete and very convenient "Chronology of Treaties," with the usual documentary citations.—F. A. O.

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One of the numerous recent monographs on various phases of the League of Nations and international government is a comprehensive study, *The Unanimity Rule and the League of Nations* (Johns Hopkins Press, pp. xi, 224), by Cromwell A. Riches. In two chapters the author outlines the various League plans and the negotiations leading to the Covenant provisions on unanimity. Three chapters (120 pages) then analyze in detail the applications, interpretations, and modifications of the unanimity rule since 1920. In these three chapters the following topics are covered: (1) abstentions from voting—counted as tacit approval, although almost always actually representing disapproval; (2) the very broad interpretation of "matters of procedure"; (3) the making of "recommendations" by majority vote in the Assembly when unanimity for a "decision" is not present; (4) the proposal of amendments by less than unanimity; (5) committee procedure; and (6) the right of parties to a dispute to vote—there is still some unsettlement of the extent of the deprivation. The author applauds the modifications of the unanimity rule and confidently predicts still further ones. Another chapter deals with the non-permanent Council membership amendment and treaty provisions departing from the rule of unanimity. Two final chapters give a well-balanced estimate of the effect of the unanimity rule on Assembly and Council, respectively. The author relied chiefly on League documents for his material, though he lists a number of secondary sources in a brief bibliography. The book is a very competent piece of scholarship.—LUTHER H. EVANS.

Dr. Yi-Ting Chang offers, in his *The Interpretation of Treaties by Judicial Tribunals* (Columbia University Press, pp. 196), a refreshing treatment of a confused and confusing subject. The subject has become involved largely because of the continuing reliance by publicists on classical "canons of construction," the tendency of jurists and judges to apply rules of interpretation characteristic of their own judicial systems, and the misleading character of dicta. By analyzing some 150 decisions of international tribunals and national courts, the author is enabled accurately to draw from judicial practices a number of interesting conclusions on the interpretation of treaties. He deals chiefly with substantive rules concerning: Respect for "Clear Meaning" (Chapter II); Constructions When the Text Appears Doubtful (Chapter III); Constructions Interfering with the Manifest Purposes (Chapter IV); Admissibility of Preparatory Work (Chapter V); Versions in Differing Languages (Chapter VI); and The "Rule of Liberal Construction" (Chapter VII). His basic premise is that "the whole problem [of treaty interpretation] becomes a question of evidence, the presentation of which calls for and also permits the simplest methods of proof," and it is amply supported by

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his analysis of actual judicial decisions. His resulting treatment appears at first over-simplified, but mainly because of the careful analysis in which superficial and confusing dicta are put in proper significance. The book should be welcomed for its clear and objective statement.—A. E. HINDMARSH.

British Preëminence in Brazil: Its Rise and Decline; A Study in European Expansion (University of North Carolina Press, pp. xi, 371), by Alan K. Manchester, is a careful study of the origin, development, and partial decline of British interest in Portuguese America. Beginning with a consideration of the Anglo-Portuguese treaties of the seventeenth century, Dr. Manchester describes the foundation of English interest in Portugal. His third chapter depicts the flight of the Portuguese dynasty from Lisbon to Rio de Janeiro in 1807–08 and the acquisition by England of commercial privileges in Portuguese America. Another chapter is devoted to the successful attempt of the English to secure those significant privileges, immunities, and guarantees which were included in the Anglo-Portuguese treaties of 1810. The complicated series of events which culminated in the acknowledgment of Brazilian independence by both Portugal and England is described in detail. Large space is accorded to the decline of British influence in Brazilian politics from 1827 to 1860, and incidental attention is paid to the development of commercial interest in Brazil by Germany and the United States. The text is followed by a carefully selected bibliography of books and articles, the whole forming a handsome and instructive volume which will be welcomed by students of English, Portuguese, and Brazilian history, as well as by students of international relations.—WILLIAM S. ROBERTSON.

Krig eller Fred [*War or Peace*] (Stockholm: Albert Bonniers Förlag, pp. 245), by Orvar Wallengren, is a brief but interesting study of the movement for the organization of peace. In five chapters, the author discusses the causes and results of war, inquires into the problem of whether war should and can be abolished, surveys the peace movement, makes certain proposals for a peace organization, and finally speculates on the effect of such new conditions as are suggested by present-day trade and economics, bolshevism, fascism, the growth of labor parties, and the like. The author thinks that if there is any solution at all for the problem of war or peace, it must lie in a league of nations somewhat more limited than the present League. He suggests a league of the white peoples of Europe and America, to which league other peoples, such as the yellow races, might later be admitted when this could be done without risk to unity and harmony. Although limited in membership and scope, this league would be militarily powerful and possess a common army and navy, but without in any other respect interfering with the sovereignty

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of its members. The idea is interesting, but hardly practicable, and the other parts of the book are considerably more enlightening.—CLARENCE A. BERDAHL.

An English supplement to the *Zeitschrift für Politik*, published early in 1933, brought together twenty admirable papers by important Germans on various aspects of the disarmament problem (reviewed in this REVIEW in August, 1933, pp. 671–672). A second English supplement to the same journal has now been published, under the title *Development of Disarmament Deliberations from the Beginning of the Conference to the End of 1932* (Berlin: Carl Heymanns Verlag, pp. 60), and comprising two papers by Wilhelm Schaer and Karl Schwendemann, respectively. These papers are, in a sense, a continuation of the studies in the earlier series, and together constitute an excellent survey of the progress of disarmament in the Conference, with particular attention to the problem of German equality. Five tables are added, which show at a glance the attitudes of the different countries toward the most important questions before the Disarmament Conference and the results achieved up to the time of writing. Altogether, these two papers constitute a very useful addition to the studies on disarmament.—CLARENCE A. BERDAHL.

A Collection of the Diplomatic and Consular Laws and Regulations of Various Countries (Carnegie Endowment for International Peace, pp. xxx, 1505), edited in two volumes by A. H. Feller and Manley O. Hudson, brings together in convenient form texts of the principal diplomatic and consular laws and regulations of the more important countries. From Albania to Yugoslavia, the principal texts are given relating to (1) the organization of the respective diplomatic and consular services, and (2) the status of foreign diplomatic officers and consuls. An appendix of fifty-three pages lists, by countries, treaties containing consular clauses of more or less general interest; and the kind of index that legal researchers like crowns the work. For students in this field these volumes will be indispensable work-books, and the editors are to be congratulated for thus making more generally available these materials gathered by the Harvard Research in International Law.—LLEWELLYN PFANKUCHEN.

As a step in the direction of more coöperation among research and other organizations dealing with foreign affairs, and with a view to helping people "understand the forces underlying contemporary international problems," the Foreign Policy Association and the World Peace Foundation have undertaken the publication of a joint series of brochures under the title of "World Affairs Pamphlets." It is expected that issues will appear at the rate of perhaps ten a year. No. 1., entitled *The World Adrift* (pp. 38), consists of a general survey of the world situation by

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Raymond Leslie Buell, closing on a note of doubt as to whether the Roosevelt Administration realized (last autumn, at all events) that the success of its efforts "depended in part on the development of a new foreign policy." No. 2., *Soviet Russia: 1917–1933* (pp. 40), by Vera Micheles Dean, presents an excellent bird's-eye view of Soviet government, industry, and agricultural policy, and of "The Soviet Union and the Capitalist World."

Described by its compilers as "a modest attempt to meet the demands of those who wish to obtain correct information regarding the general conditions and activities of Manchoukuo," *Manchoukuo; A Handbook of Information* (Manchoukuo Department of Foreign Affairs, pp. 161) is a compendium of statistical and other information valuable chiefly for the indications of future political and economic policy which it somewhat indirectly conveys.

POLITICAL THEORY AND MISCELLANEOUS

In *Sidney and Beatrice Webb* (Houghton Mifflin Co., pp. vi, 310), Mrs. Mary Agnes Hamilton, former Labor member of Parliament, novelist, lecturer, and writer of a biography of MacDonald, presents a useful popular account of the Webbs' career up to the present time, and concludes with an appeal for books by them on Russia and on their own life from the point at which Beatrice Webb's *My Apprenticeship* ended. The student of politics familiar with contemporary Britain will find no important new information in the book, while the interpretations presented are those already held by most informed publicists and students. The general reader will obtain a clear and helpful view of the important influences and movements contributing in the latter part of the nineteenth century to a reorientation in British politics. The importance of the Fabian group is stressed, and the value of Mrs. Webb's family and social connections in the governing class of the time indicated. Tribute is paid to the pioneer research of the Webbs into the coöperative and trade union movements, and to their contribution through the Poor Law Commission to new conceptions of social policy, although their campaign ended in defeat. The important work done by Sidney Webb on the London County Council and the contribution of both to the birth and development of the London School of Economics is recorded. The latter third of the book describes Mr. Webb's work in the Labor party as a member of the inner councils, member of Parliament, and of the cabinet. In his second cabinet post, as Secretary of State for the Colonies, he was most unhappy, and his deep-rooted conservatism in matters of imperial and international policy helped to make an already difficult situation in Palestine worse. To many readers the interpretation of the character of these two able

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persons will be much the most interesting aspect of the book. Mrs Hamilton has done this work of interpretation with acute insight, wisdom, and patent fairness.—JOHN M. GAUS.

The first comprehensive book for social workers on legal questions relating to the family has been prepared by Dr. Sophonisba Breckenridge, lawyer, pioneer social worker, and stimulating teacher. *The Family and the State* (University of Chicago Press, pp. 565) is a source book, the materials for which have been selected from judicial decisions, parliamentary debates, statutes, reports of commissioners, etc. The important legal relationships of husband and wife, including marriage and divorce, termination of marriage ties, reciprocal rights of husband and wife in the person of each other, property rights of husband and wife, occupy approximately half of the book. Parent-child relationships, the problems associated with guardianship, apprenticeship, adoption, and illegitimacy are presented in the other half. There is a minimum of comment and editing, which is missed by the reader, although adequately provided by Miss Breckenridge in the class room. Materials on the legal aspects of sterilization and the provisions of the state for the family needing public assistance are lacking. The book will be of great value not only to teachers of social work and to those interested in social legislation and social research, but to lawyers having more than a purely legalistic viewpoint toward some of the problems of society and also to public administrators having to do with various aspects of the relationships between the family and the state.—HELEN I. CLARKE.

The main theme of Charles Burdet Judah's *The North American Fisheries and British Policy to 1713* (University of Illinois Studies in the Social Sciences, XVIII, Nos. 3–4) is the conflict of the fishermen of western England and London merchants for the profits of the Newfoundland fishery. The former desired to carry on the fishery by means of an annual fleet sailing from England; the latter through colonists established at the island. During two centuries, English policy shifted in response to the pressure of these two groups, and the influence of the west country men prevented the establishment of a permanent government for the colony. Eventually, the threat of French occupation of Newfoundland compelled the adoption of the London program. Mr. Judah considers English policy as one of exploitation of the colonies for the benefit of English capitalists —a policy that developed in the face of "immediate problems or at the demand of some group interested in immediate gain." The methods of the Newfoundland fishery are excellently analyzed, but the New England fishery is not treated fully, nor is the Anglo-French conflict. The writer's approach is realistic; his discussion is fresh and lively; and his summaries are admirable. He has taken pains to understand his materials, to per-

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ceive their relationships, and to form them into an effective pattern.—CURTIS NETTELS.

In his *Émile Durkheim on the Division of Labor in Society* (Macmillan Co., pp. xliv, 439), George Simpson has done American students of social thought a real service. It is both a commentary upon our provincialism and a mark of spreading interest in the moral nature of society that a work first published in 1893, and long influential abroad, should only now be made available in English translation. Even from students of government in a pre-NRA sense, Durkheim's essay on occupational groups, first written as a preface to the 1902 French edition, should elicit attention; while his effortful analysis of the moral significance of types of law in society merits the attention of architects of the New Deal. In the present volume we are given a competent translation of *De la Division du Travail social*, the prefaces to the first two editions, the portions of the original Introduction omitted from subsequent editions, and a twenty-page estimate by the translator.—ALLAN F. SAUNDERS.

Forced Labour in the United States (International Publishers, pp. 186), by Walter Wilson, is a defense of the Soviet Union against the charge of "forced labor" which was made in conjunction with a campaign to debar Soviet-made goods under a provision of the Smoot-Hawley tariff act of 1930. As a defense, it proceeds on the old principle that the best defensive is a vigorous offensive. It accordingly describes the conditions of convicts in the more backward states of the American Union and exposes the use of forced and peon labor in the colonial countries tributary to American capitalism. Only a small part of the book is given to a description of Russian labor conditions, which includes a section on the Kulaks uprooted in conjunction with the recent campaign to collectivize Russian agriculture. The quality of the treatment puts the book decidedly above the level of a mere work of propaganda.—SELIG PERLMAN.

In an effort to keep a readable and generally excellent textbook up to date, F. Lee Benns has brought out an edition of his *Europe Since 1914* (F. S. Crofts and Co., pp. xiv, 862) which records events as recent as the German plebiscite of last November and the recognition of the Soviet Union by the United States. A classified bibliography running to upwards of seventy pages forms a convenient reference list. *Europe Since Napoleon* (Ginn and Co., pp. ix, 890), by Franklin C. Palm and Frederick E. Graham, is another good text, subordinating factual detail and dominated by emphasis upon the rôle played by the middle classes in the development of contemporary Western civilization.

For twenty years, Gilbert Slater's *The Making of Modern England* has been a standard textbook on English social and economic history since

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the Industrial Revolution. A new edition under the slightly altered title of *The Growth of Modern England* (Houghton Mifflin Co., pp. xi, 642) does not attempt to trace developments beyond 1914, but nevertheless makes full use of the new light thrown upon the preceding century and a half by what has happened since that date. There are brief chapters on such topics as local government and parliamentary reform, and the entire volume helps to an understanding of political conditions and developments.

During the four years (1929–32) in which the journal was issued, *Social Science Abstracts* furnished scholars a unique record of current periodical publication in the fields of political science, economics, sociology, statistics, history, anthropology, and human geography. A consolidated *Index to Volumes I–IV* (pp. 725) adds value to the journal's files; and particular interest attaches to an appendix in which will be found by all odds the most comprehensive list of periodicals and serials in the social sciences ever compiled.

In his *The Civilization of the Old Northwest* (Macmillan Co., pp. ix, 543), Professor Beverley W. Bond, Jr., presents an excellent general picture of the political, social, and economic development of his chosen section in the formative period 1788–1812, but without going much more deeply into the origins and growth of political institutions than previous historians have done. There is a good deal on the early governorships and on territorial and state legislatures, but less than might be expected on county, township, and other local government.

Professor Walter C. Langsam has taken advantage of the publication of a second edition of his excellent volume on recent history, *The World Since 1914* (Macmillan Co., pp. xv, 742), to add a brief chapter entitled "Crossroads" and also a "Summary of Most Recent Developments." The REVIEW regrets that in its notice of the first edition, in the issue of last August, the book was erroneously credited to another publisher.

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RECENT PUBLICATIONS OF POLITICAL INTEREST

BOOKS AND PERIODICALS

CHARLES S. HYNEMAN
University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

Anderson, B. M. Jr. On the practical impossibility of a commodity dollar (Pamphlet). N.Y.: Chase Nat. Bank.

Anti-depression legislation. Pp. 188. N.Y.: Am. Inst. of Banking.

Astor, Viscount, and *Murray, Keith A. H.* The planning of agriculture. N.Y.: Oxford Univ. Press.

Atkins, Willard E. Gold and your money. N.Y.: McBride.

Barnes, Harry Elmer. Money changers versus the new deal. Pp. 150. N.Y.: Long & Smith.

Berenberg, D. P. America at the crossroads. N.Y.: Road School Press.

Bernstein, Louis. The N.R.A. and the new deal. N.Y.: Globe Book Co.

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